

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
3 - - - - -

4 The State of Minnesota,
5 by Hubert H. Humphrey, III,
6 its attorney general,
7 and
8 Blue Cross and Blue Shield
9 of Minnesota,

10 Plaintiffs,

11 vs. File No. C1-94-8565

12 Philip Morris Incorporated, R.J.
13 Reynolds Tobacco Company, Brown
14 & Williamson Tobacco Corporation,
15 B.A.T. Industries P.L.C., Lorillard
16 Tobacco Company, The American
17 Tobacco Company, Liggett Group, Inc.,
18 The Council for Tobacco Research-U.S.A.,
19 Inc., and The Tobacco Institute, Inc.,

20 Defendants.

21 - - - - -

22 TRANSCRIPT OF PROCEEDINGS
23 VOLUME 30, PAGES 5678 - 5878
24 MARCH 2, 1998
25

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ADVERSE EXAMINATION - JAMES J. MORGAN (BY VIDEOTAPE)

1 P R O C E E D I N G S
2 (In-chambers conference as follows:)
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ADVERSE EXAMINATION - GEOFFREY C. BIBLE
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(In-chambers conference concluded.)

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1 THE CLERK: All rise, Ramsey County
2 District Court is now in session, the Honorable
3 Kenneth J. Fitzpatrick presiding.
4 (Jury enters the courtroom.)
5 THE CLERK: You may be seated.
6 THE COURT: Good morning.
7 (Collective "Good morning.")
8 MR. CIRESI: Your Honor, the plaintiffs
9 will call James J. Morgan for cross-examination
10 pursuant to Rule 611(c) of the Rules of Evidence. He
11 is the former president of Philip Morris. It will be
12 by videotape deposition.
13 THE COURT: All right.
14 (Videotape played.)
15 MR. CIRESI: Your Honor, there's an
16 objection from page 100, line three to 116, line 19,
17 as being outside the scope and contrary to the
18 court's order. It's a counter-designation at that
19 point.
20 MR. GARNICK: Your Honor, beginning on page
21 116, which is the plaintiffs' designated, the
22 questions relate to marketing and impact on --
23 possible impact on youth. I think that's about half
24 of the total discussion which begins on 100. And
25 especially when one gets to page 108, line 14, I

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1 think it's virtually the same subject matter.
2 MR. CIRESI: Your Honor, different subject
3 matters are raised. We did not get into advertising
4 yet, we're only dealing with marketing later on. We
5 have not even started our examination of him and this
6 designation was interposed.
7 THE COURT: You may answer the question.
8 (Videotape continued to be played.)
9 MR. CIRESI: Your Honor, Exhibit 681 is
10 Trial Exhibit 3072, and we offer 3072.
11 MR. GARNICK: No objection.
12 THE COURT: Court will receive 3072.
13 (Videotape continued to be played.)

14 MR. CIRESI: Your Honor, the next document
15 that is referred to in the deposition is Exhibit 148,
16 it is Trial Exhibit 2557, and we would offer 2557.
17 MR. GARNICK: No objection.
18 THE COURT: Court will receive 2557.
19 (Videotape continued to be played.)
20 MR. CIRESI: Your Honor, Exhibit 146 in the
21 transcript is being offered as Trial Exhibit 2555.
22 MR. GARNICK: No objection.
23 THE COURT: Court will receive 2555.
24 (Videotape continued to be played.)
25 MR. CIRESI: Your Honor, the next exhibit
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1 in the transcript is 355, it's already been admitted
2 as Exhibit 11808, 11808.
3 THE COURT: 355 will be referred to as
4 11808.
5 (Videotape continued to be played.)
6 MR. CIRESI: Your Honor, the balance is the
7 defendants' designation and we objected to it as
8 being outside the scope.
9 MR. GARNICK: Your Honor, we will withdraw
10 the designation.
11 THE COURT: We'll take a short recess then.
12 THE CLERK: Court stands in recess.
13 (Recess taken.)
14 THE CLERK: All rise. Court is again in
15 session.
16 (Jury enters the courtroom.)
17 THE CLERK: Please be seated.
18 THE COURT: Counsel.
19 MR. CIRESI: Thank you, Your Honor. The
20 plaintiffs call for cross-examination pursuant to
21 Rule 611 Geoffrey Bible.
22 (Witness sworn.)
23 THE CLERK: Will you please state your name
24 for the record.
25 THE WITNESS: Geoff Bible.
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1 THE CLERK: And you may be seated.
2 GEOFFREY C. BIBLE
3 called as a witness, being first duly
4 sworn, was examined and testified
5 as follows:
6 ADVERSE EXAMINATION
7 BY MR. CIRESI:
8 Q. Good morning, Mr. Bible.
9 A. Good morning, sir.
10 MR. CIRESI: Good morning, ladies and
11 gentlemen of the jury.
12 (Collective "Good morning.")
13 Q. Sir, you and I have not met before.
14 A. No, not to my knowledge.
15 Q. And you are presently the chief executive
16 officer of Philip Morris Companies?
17 A. Yes.
18 Q. How long have you been the chief executive

19 officer, sir?
20 A. Since June 1994, so that's about three and a
21 half years.
22 Q. How long have you been with Philip Morris
23 Companies or its predecessors?
24 A. A total of 24 years.
25 Q. Have you been there consecutively throughout the
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1 entire 24-year period?
2 A. No, I have not.
3 Q. What else have you done during the course of
4 those 24 years, sir?
5 A. Well in 1968 I joined Philip Morris, and then in
6 1970 I left and I worked with an Australian financial
7 services group for six years. I rejoined Philip
8 Morris in 1976 in Europe.
9 Q. So you were gone for --
10 A. Six years.
11 Q. -- six years.
12 A. Yeah.
13 Q. So other than that six years, you've been at
14 Philip Morris the entire time; correct?
15 A. Yes, that's correct.
16 Q. Okay. And originally you were born in
17 Australia?
18 A. I was born in Australia. I was raised in
19 Australia.
20 Q. All right. And you became an American citizen,
21 I think, in 1994; correct?
22 A. That's right, sir.
23 Q. Now sir, Philip Morris Companies has a number of
24 various operating companies within it; correct?
25 A. Yes.

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1 Q. It has a tobacco business obviously; correct?
2 A. Yes.
3 Q. Has a food business?
4 A. Yes.
5 Q. Has a beer business?
6 A. Yes.
7 Q. And it has a financial services business.
8 A. Yes.
9 Q. And can you direct your attention, please, to
10 Exhibit 20153, which will be in Exhibit -- or in book
11 two in front of you.
12 Let me tell you this, Mr. Bible, during the
13 course of our examination I'll be referring to
14 documents in those books, and it's either volume one
15 or two. All right?
16 A. So it's now volume two?
17 Q. Volume two.
18 A. Thank you.
19 And what was the reference, please?
20 Q. 20153. It's about halfway through, sir.
21 A. Yes.
22 Q. That is the 1996 annual report for Philip Morris
23 Companies, Incorporated?

24 A. Yes.
25 Q. The 1997 annual report is not yet completed;
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1 correct?
2 A. No, it's not yet published.
3 Q. When will that be published, sir?
4 A. I'd have thought in the coming weeks.
5 Q. In the coming week?
6 A. Coming weeks.
7 Q. Weeks.
8 A. Hmm.
9 Q. Now at the end of 1996 Philip Morris Companies
10 had had operating revenues of approximately six -- 88
11 billion dollars; is that correct?
12 A. No, that wouldn't be right.
13 Q. It's 68 billion?
14 A. That would be more like it, right. Let me just
15 see if I can read it here so --
16 Operating revenues, 68 billion dollars, yes.
17 Q. Okay. 68.9 billion dollars.
18 A. Right.
19 Q. Now of that, the domestic tobacco operation in
20 the United States --
21 Which is called Philip Morris U.S.A.; correct?
22 A. Yes.
23 Q. -- that did approximately 12,462,000,000
24 dollars; correct?
25 A. Correct.

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1 Q. And the international tobacco business did
2 approximately 24 billion dollars; correct?
3 A. Correct.
4 Q. And in the United States, on the 12 billion, you
5 had operating income of about 4.2 billion dollars;
6 correct?
7 A. Yes.
8 Q. About one-third of the revenues; correct?
9 A. Yes. That would be approximate, uh-huh.
10 Q. And for the international operations you did
11 about four billion in operating income on revenues of
12 24 billion dollars; correct?
13 A. Yes, that's correct.
14 Q. And the food operations had operating income of
15 about 2.5 billion?
16 A. The domestic food operations, yes.
17 Q. Okay. And the international food operations had
18 operating income of about 1.3 billion.
19 A. Yes.
20 Q. Now the net earnings per share -- or net
21 earnings, excuse me, for the entire corporation for
22 the fiscal year ending 1996 was 6.3 billion; correct?
23 A. Correct.
24 Q. And that was the earnings per share of about
25 \$7.68?

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1 A. Correct.
2 Q. That was about an 18 percent increase over the
3 previous year.
4 A. Correct.
5 Q. And your operating cash flow during the year was
6 about 7.7 billion dollars; correct?
7 A. Well I can't see that here, but that would be
8 approximate, yes. I can't --
9 Can you point me to that number?
10 In any event, it would be of that order.
11 Q. About that order. All right.
12 And do you recall that the assets that the
13 company owned as of the end of 1996 were about 54.8
14 billion dollars?
15 A. Well I don't have it exactly in my head, but it
16 would be approximately that number, yes.
17 Should be in here, actually.
18 Q. Actually, sir, if you look at the bottom --
19 A. Yeah. 54.8, there it is.
20 Q. Now can you direct your attention, sir, to what
21 is page two, right after the financial highlights.
22 It's got your picture on it.
23 A. Yes.
24 Q. Now in the annual reports you generally have a
25 short letter to the shareholders; correct?

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1 A. Yes.
2 Q. And starting on page two is that letter;
3 correct, sir?
4 A. That's correct, yes.
5 Q. And you represent to the shareholders that 1996
6 was one of the best years ever at Philip Morris;
7 correct?
8 A. Yes.
9 Q. The net earnings that we just mentioned were 6.3
10 billion, which were up 15.1 percent over the previous
11 year; correct?
12 A. Yes.
13 Q. And earnings per share soared 18 percent that
14 year; correct?
15 A. Yes.
16 Q. And the operating cash flow hit 7.7 billion;
17 correct?
18 A. Yes.
19 Q. And you point out that from 1986 through 1996,
20 your earnings per share have grown at an average of
21 17.4 percent a year; correct?
22 A. Yes.
23 Q. And you point out that that remarkable growth
24 had been driven by the company's ability to
25 accomplish its first goal, to increase earnings by

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1 growing our businesses; correct?
2 A. Correct.
3 Q. That is the first goal of Philip Morris
4 Companies; correct?

5 A. Our first business goal, that's correct.
6 Q. That is your first business goal of Philip
7 Morris U.S.A., the tobacco company; correct?
8 A. That would be our first business goal of each of
9 our businesses, sir.
10 Q. And you talk here about the brand images and
11 brand names that you have within the family of
12 products of Philip Morris; correct?
13 A. Yes, further down I do. I talk about 68 brands,
14 yes.
15 Q. And the one you point out is the universal
16 symbol of business success, the Marlboro cigarette;
17 correct?
18 A. Well I recall that. I don't quite see it here,
19 but I do recall referring to that.
20 Q. It's in the second paragraph there, sir. Do you
21 see it?
22 A. Yes, I do. Sorry.
23 MR. CIRESI: Your Honor, we're going to
24 offer Exhibit 20153.
25 MR. BLEAKLEY: No objection, Your Honor.
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1 THE COURT: Court will receive 20153.
2 BY MR. CIRESI:
3 Q. Now in this year, sir, 1996, you had shipped
4 more cigarettes domestically than you ever had before
5 in the history of the company; correct?
6 A. I think that's correct, yes.
7 Q. And last year, 1997, did you ship more than you
8 had in 1996?
9 A. I think we did.
10 May I have a glass of water, please?
11 Q. Any time you want one, sir.
12 A. Thank you very much.
13 In 1997, yes, I think we had the highest
14 shipments we've had.
15 Q. So that annual report is not out yet, but that
16 would show that your cigarettes shipped domestically
17 in the United States increased even more than 1996;
18 correct?
19 A. Yes, it should show that.
20 Q. Now in the annual report in 1996, you also talk
21 about meeting public policy challenges, and if you
22 could turn to a couple of pages forward, sir.
23 A. Yes.
24 Q. It says we're fighting for our rights and the
25 rights of our consumers. Do you see that?

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1 A. Ah --
2 Q. On the left-hand side.
3 A. Oh, yes, right. Sorry.
4 Q. Now was one of the rights of your consumers to
5 have a safe product?
6 A. I think one of the rights of our consumers is to
7 have a good product.
8 Q. That's not what I asked, sir. Is one of the
9 rights of your consumers to have a safe product?

10 A. I would say yes.
11 Q. And that includes all your products; correct,
12 sir?
13 A. Yes.
14 Q. Now as the CEO, you have a compensation package
15 with the company; correct?
16 A. Yes, I do.
17 Q. And that compensation package is tied, in part,
18 to the profits that the company will make; correct?
19 A. Yes.
20 Q. And by "the company," I mean all of its
21 businesses; correct?
22 A. Yes.
23 Q. That includes the tobacco business; correct?
24 A. Yes.
25 Q. And in 1995 your salary and bonus was, what,
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1 2.65 million?
2 A. Well I don't remember exactly, but that --
3 It would be in that area, yes.
4 MR. CIRESI: May I approach, Your Honor?
5 Q. Just to refresh your recollection, Mr. Bible,
6 I'll just hand you a couple printouts from the Wall
7 Street Journal to help you remember what your income
8 was if you forget.
9 MR. BLEAKLEY: Could we have copies of
10 that, Your Honor, before it's shown to the witness?
11 MR. CIRESI: May I approach again?
12 I just had one. It's only to refresh his
13 recollection. I'm not going to offer it, Your Honor.
14 MR. BLEAKLEY: I'd still like to see it
15 before --
16 THE COURT: Well show it to counsel first,
17 please.
18 MR. CIRESI: Mr. Bible, I'll have to ask
19 for it back for a minute.
20 Thanks.
21 (Document shown to Mr. Bleakley and then
22 returned to the witness.)
23 BY MR. CIRESI:
24 Q. Now in 1995 your salary and bonus was what, 2.85
25 million or 2.65 million?

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1 A. 2.65.
2 Q. Okay. And were you also awarded shares of
3 stock?
4 A. Yes, I was awarded some shares of stock.
5 Q. That would be 140,000 shares of stock?
6 A. Well they were options to buy shares at a
7 predetermined price.
8 Q. And the value of those was about 2.1 million?
9 A. It's always very hard to place a value on them.
10 They're a very --
11 There are a number of models used. The simple
12 model I use is the difference between the price at
13 which they're granted to me and what the market price
14 is. When they're awarded to you, it's generally the

15 market price of that day, so it depends what happens
16 to the share price thereafter. And I don't recall
17 the price at which these were given to me in 1995. I
18 think the share price would have been less than it is
19 today, in any event.

20 Q. Did you have to pay for them?

21 A. No. I generally keep my options --

22 They have a life of 10 years, and generally I
23 keep my options until the 10-year expiration period
24 and then I will exercise at that point in time.

25 Q. And the hope is that the market will be higher;

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1 correct?

2 A. That would be my hope, yes, and I'd hope every
3 other stockholder's hope.

4 Q. And the value of shares on that day were about
5 2.1 million; correct?

6 A. Yes. That -- that would be --

7 Again, I think that's probably another fair
8 characterization of it. They're -- they're really
9 that day valueless to me because they were awarded to
10 me in the sense that I could exercise an option to
11 buy shares at that price, and that was the value of
12 the shares those -- that day, so if I'd exercised
13 that day I'd have made nothing out of it. So the
14 value really was zero, but should the share price go
15 up any time, then they would have a value then.

16 Q. When you negotiated your compensation package,
17 did you negotiate for stock options?

18 A. I don't -- I don't negotiate my compensation
19 package. It's determined by the compensation
20 committee, which is made up of an independent group
21 of our directors, of our board of directors, and they
22 tell me what my compensation is each year.

23 Q. So they simply tell you what your compensation
24 will be each year; is that correct?

25 A. Yes, that's right.

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1 Q. Okay. And you also got restricted stock options
2 worth about 3.9 million dollars in that year;
3 correct?

4 A. Yes, that's right.

5 Q. And you also had a long-term incentive program
6 of 1.7 million dollars; correct?

7 A. Yes. That's based over performance on a
8 three-year period and it's payable every three years,
9 depending upon the performance of the company.

10 Q. Every three years you get a long-term incentive
11 program that goes for the next three years, and it's
12 based upon the performance of the company; correct?

13 A. That's right.

14 Q. The more money the company makes, the better off
15 you become.

16 A. Essentially, yes.

17 Q. So the total compensation package in 1995 was
18 about 10.35 million; correct?

19 A. Well I don't quite get to that number. Let me

20 just see.
21 Q. Well you had 2.65 salary and bonus, shares of
22 2.1 million, 3.9 million in restricted stock, and 1.7
23 million in a long-term incentive program. So the
24 potential value of the compensation package in that
25 year was over 10 million dollars; correct?

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1 A. Well I'm not going to quibble with you, sir, but
2 as I tried to explain, the shares that you talk about
3 really had no value, so that's 2.1 million dollars.
4 Q. Oh. Okay. If you don't exercise them, we'll
5 take two million off. So it's a little over eight
6 million dollars; correct?

7 A. Correct.

8 Q. Thank you.

9 Now in 1996 your salary and bonus was 2.85
10 million dollars; is that correct?

11 A. Yes.

12 Q. And you also had options extended to you that
13 year; correct?

14 A. Yes.

15 Q. And you also had restricted stock options
16 granted to you that year; correct?

17 A. Yes, I did, that's right.

18 Q. And the total stock options granted to you that
19 year had a value, whether you exercised them or not,
20 of about 5.7 million; correct?

21 A. That's what was said here, yes.

22 Q. So the total compensation package in 1996 would
23 have been about 8.5 million; correct?

24 A. Using your definition, yes.

25 Q. Yes.

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1 Now in 1997 you had a simple -- similar
2 compensation package?

3 A. Well not quite similar. I didn't receive any
4 restricted stock, to the best of my knowledge, so
5 that wasn't there, and my salary, I think, went up in
6 July 1997 somewhat, and my bonus was slightly higher.

7 Q. Okay. And what -- what was your salary in 1997,
8 sir?

9 A. I think it was 1.5 million dollars.

10 Q. And what was your profit sharing that year?

11 A. My bonus was 1.9 million dollars, I think.

12 Q. Okay. So those two were 3.4 --

13 A. 3.4.

14 Q. -- million.

15 A. Yes.

16 Q. Okay. And did you have stock options in 1997?

17 A. Yes. I was awarded a million stock options in
18 1997.

19 Q. I'm sorry?

20 A. A million stock options in 1997.

21 Q. A million shares?

22 A. A million options to --

23 I don't want to quibble over this, but there's
24 quite a big difference between options and shares.

25 It is an option to require a share at a
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1 predetermined -- a predetermined price.
2 Q. How many shares could you acquire, a million?
3 A. If I were to exercise, it would be a million
4 shares, yes.
5 Q. Okay. So that would compare to the 200,000
6 shares that you got in '96; correct?
7 A. That's right, yes.
8 Q. And to the 140,000 that you got in '95; correct?
9 A. Exactly.
10 Q. All right. Now sir, as the CEO of Philip Morris
11 Companies, you report to the board of directors;
12 correct?
13 A. Yes.
14 Q. The board of directors is the ultimate authority
15 in the company; correct?
16 A. Yes.
17 Q. They have power to make decisions; correct?
18 A. Yes.
19 Q. They have the power to hire you; correct?
20 A. Yes.
21 Q. They have the power to fire you; correct?
22 A. Yes.
23 Q. They set the overall management of the company;
24 correct?
25 A. I'm not quite sure what you mean by that, when
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1 you say "the overall management."
2 Q. Well they set the management team in place by
3 selecting the CEO; do they not?
4 A. Yes. I -- I would select the management team.
5 They would select me.
6 Q. They select you and you in turn select people
7 who report to you; correct?
8 A. Yes, that's right.
9 Q. And you have the responsibility for the
10 day-to-day executive decisions of the company;
11 correct?
12 A. Yes. I do have reporting to me a chief
13 operating officer to whom the operating companies you
14 mentioned earlier report to him, and he reports to
15 me.
16 Q. But ultimately, sir, as Harry Truman used to
17 say, the buck stops in your office; correct?
18 A. That's exactly right.
19 Q. All right. You have to make the ultimate
20 decisions of this company; correct?
21 A. Yes.
22 Q. And that also pertains to every issue regarding
23 smoking and health; correct?
24 A. I don't want to quibble about that either, but I
25 would say that Philip Morris U.S. tobacco has its own
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1 management, Philip Morris International tobacco has
2 its own management, and they run those businesses,
3 and on issues of smoking and health they would
4 formulate their own practice and policies. I would
5 be aware of them. If I disagreed with them, I would
6 certainly let them know and I would urge them to be
7 changed.
8 Q. You have the power to change them; do you not?
9 A. Yes, I do.
10 Q. You have the power to make a decision what
11 Philip Morris will say regarding smoking and health;
12 don't you?
13 A. Yes.
14 Q. Now you understand that Philip Morris has duties
15 to its customers; correct?
16 A. Yes.
17 Q. It has duties under the law; correct?
18 A. Yes.
19 Q. It has duties to the public health; correct?
20 A. Yes.
21 Q. It has duties to its shareholders; correct?
22 A. Yes.
23 Q. Has duties to its employees; fair?
24 A. Yes.
25 Q. Now it also has a duty to make money; correct?

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1 A. Yes.
2 Q. But you can't set money above public health; can
3 you?
4 A. No, I don't think I'd set money above public
5 health. I would say that, in that respect, the
6 duties that you outlined, I'd take them all as very
7 serious responsibilities. I don't know that I'd
8 raise one above the other. I think they're all very
9 serious responsibilities.
10 Q. The first and foremost duty is to the health of
11 your customers; is it not, sir?
12 A. I would say one of the -- as I just said, I
13 think, one of the most important responsibilities I
14 have.
15 Q. It is the most important responsibility; is it
16 not, Mr. Bible?
17 A. No, I'd say it is one of the most important
18 responsibilities I have. As you outlined, I have
19 responsibilities to my employees, to my stockholders,
20 to my customers, to the community generally.
21 Q. Are you saying that the duty to make money is
22 equal to the duty of the health of your customers?
23 A. I would say that all are equally important in
24 the conduct of my job, but I place them all of the
25 highest ranking.

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1 Q. So that you would place the duty to make money
2 equal to the duty to the public health; is that what
3 you're saying?
4 A. I -- I would say -- I wouldn't quite put it that
5 way. I would say that my duty to return reasonable

6 return on my stockholders' investment in our company
7 is as important as my duty to my consumers and to my
8 customers and to my suppliers and to my employees.
9 Q. So that the duty to return a reasonable
10 investment to your shareholders is equal to your duty
11 to the public health.
12 A. That's how I see my job. I think they're all
13 very important aspects of my job.
14 Q. Now sir, if your product killed a hundred
15 thousand people a year, would you still consider your
16 duty to the investors to be equal to a product that
17 killed a hundred thousand people a year? I just want
18 you to assume that.
19 A. Well it's an assumption that I really don't feel
20 I want to make because I don't believe that my
21 product does do that.
22 Q. We'll get to that.
23 I want you to assume that it does kill a hundred
24 thousand people a year. Would your duty to the
25 shareholders still be equal to the customers that

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1 were being killed by the product?
2 A. Well sir, I expect that you're referring to the
3 suggestion that cigarettes do that, and I don't know
4 if cigarettes do that, so I find it very hard to make
5 that assumption.
6 Q. That wasn't my question.
7 A. Uh-huh.
8 Q. My question is make the assumption. And if they
9 did kill a hundred thousand people, would your duty
10 to the public health still be equal to your duty to
11 your shareholders to make money?
12 A. I would think if that were the case, I would
13 reconsider my responsibilities. But again, it's an
14 assumption that I don't feel I can make.
15 Q. Okay. If they did kill, you would reassess your
16 evaluation of your duties; is that correct?
17 A. Well I would reassess many things, I think, sir.
18 Q. Would you reassess the evaluation of your
19 duties?
20 A. That would be one thing I would do.
21 Q. Now how many people would it have to kill before
22 you got to the point where you would reassess those
23 duties? How many?
24 A. Well I -- I don't find that a very fair
25 question, sir. I -- I can't assume something of that

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1 nature when it's not something I believe occurs.
2 Q. How many would have to die from smoking before
3 you would reassess your duties? One? A hundred?
4 Five thousand? How many, sir?
5 A. Well sir, I don't know that anybody does, so I'm
6 finding that a very hard assumption to make.
7 Q. I didn't ask you that yet. We'll get to that.
8 A. Okay.
9 Q. How many would have to die from your products
10 before you'd reassess your duty?

11 A. I would have thought, if you're forcing me to
12 say that somebody -- I have to assume somebody died,
13 if one person died I would reassess my duties.
14 Q. So if one person died from smoking, you would
15 reassess your duties; is that correct?

16 A. I would reassess my duties. I would look at all
17 of my duties, yes.

18 Q. Would you shut down the business if one person
19 died?

20 A. Yes. Well that question has actually been asked
21 me before publicly in a deposition, and I had said at
22 the time that perhaps I would because I would like to
23 talk with the government about the matter because of
24 the wide implications it would have. I subsequently
25 concluded that probably that wouldn't be a very

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1 effective thing to do because there's quite a large
2 supply of cigarettes in the supply line and that
3 wouldn't have any impact, just closing down the plant
4 for a short period of time.

5 I frankly believe that most people in America,
6 perhaps in the world even, believe that cigarettes
7 are a risky product.

8 Q. Sir, that's -- that's not what I asked you.
9 Excuse me.

10 A. And I don't -- and I will --
11 May I complete?

12 MR. BLEAKLEY: Your Honor, I object, he's
13 interrupting the witness.

14 MR. CIRESI: I did interrupt, because he --

15 THE COURT: Please don't interrupt the
16 witness.

17 A. And I -- I believe that most people in America,
18 most smokers, most people, and in fact most people in
19 the world, recognize that cigarettes are a risk
20 factor, can cause damage, and I don't know if it
21 became -- if people became aware, if there were some
22 scientific proof that cigarettes were to kill people,
23 that in fact the government would ban the product. I
24 think one of the first things I would do would be to
25 talk to the government to determine whether they, the

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1 federal government or the state governments,
2 together, would like to ban the product. If they
3 did, of course, I'd shut the -- I'd shut the plant.

4 Q. Are you done? Are you done?

5 A. Yes, I'm finished.

6 Q. All right. Well now see if you can answer my
7 question.

8 If one person died as a result of your products,
9 would you shut the business down?

10 A. No. I just explained what I would do.

11 Q. You would not. Okay.

12 Now you did state under oath in August of 1997
13 that you would shut the business down; didn't you?

14 A. Yes. And I just explained that I subsequently
15 reflected upon that and I felt that that would not

16 have much effect.
17 Q. Because there were cigarettes in the pipeline?
18 A. And I concluded, also, that I think that the
19 more important feature would be to the government to
20 determine whether the product should remain a legal
21 product or not.
22 Q. And the government through the Surgeon General,
23 since 1964, has said that smoking causes disease;
24 hasn't it?
25 A. I'm not sure since when. '64 I think is right,
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5711

1 yes.
2 Q. It causes all kinds of disease, correct, the
3 government has said; isn't that right, sir?
4 A. The government has claimed it causes certain
5 diseases, yes.
6 Q. Now do you believe that Philip Morris has a duty
7 to market a safe product?
8 A. I think we have a duty to market a product, if
9 there are risk factors associated with it, that the
10 public should be aware of those risk factors.
11 Q. That's not what I asked you. Does it have a
12 duty to market a safe product?
13 A. Well I think they have a duty to make as safe a
14 product as they possibly can.
15 Q. And did Philip Morris have a duty to make as
16 safe a product as it possibly could since 1954?
17 A. I would say so, yes.
18 Q. And if they didn't do that, they would have been
19 violating that duty; correct, sir?
20 A. If they did not do that, I think that's probably
21 accurate to say.
22 Q. And if they violated that duty to the public,
23 then they should be held accountable for the
24 violation of that duty; correct?
25 MR. BLEAKLEY: That's a legal question.
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1 It's argumentative, Your Honor.
2 THE COURT: No, you may answer that.
3 A. Could you repeat the question, please?
4 Q. Sure.
5 If they violated that duty, they should be held
6 accountable for the violation of that duty; correct?
7 A. Yes, I think they should be asked to explain
8 why.
9 Q. They should be held accountable; shouldn't they,
10 sir?
11 A. Yes.
12 Q. Do you believe that Philip Morris has a duty to
13 tell consumers what it knows about the risks of its
14 product?
15 A. Yes, I do.
16 Q. It has had that duty since 1954; correct?
17 A. Well I think it's had that duty since it
18 manufactured cigarettes, yes.
19 Q. Let's just stay with from 1954 up to today, sir.
20 Had that duty; correct?

21 A. Yes.
22 Q. And if it violated that duty, it should be held
23 accountable; correct?
24 A. Yes, I agree with that.
25 Q. And do you agree that Philip Morris had a duty
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1 not to make false promises regarding its product?
2 A. I certainly agree with that.
3 Q. And if it violated that duty, it should be held
4 accountable; shouldn't it?
5 A. I think that's proper, yes.
6 Q. And do you believe that Philip Morris had a duty
7 not to make a misrepresentation about its products?
8 A. Absolutely, yes, I do agree with that.
9 Q. And you absolutely agree that if it violated
10 that duty, it should be held accountable; correct,
11 sir?
12 A. I agree with that.
13 Q. Do you believe that Philip Morris had a duty not
14 to make misleading statements about its product?
15 A. Yes.
16 Q. And if it violated that duty, it should be held
17 accountable; shouldn't it, sir?
18 A. Yes, I agree.
19 Q. Do you believe that Philip Morris had a duty not
20 to make false statements about its product?
21 A. Yes, I agree it should not make false
22 statements.
23 Q. And if it violated that duty, it should be held
24 accountable; correct?
25 A. Yes, I agree with that.

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1 Q. You realize that Philip Morris has a duty not to
2 knowingly misrepresent the quality of its product;
3 correct?
4 A. Yes, I agree with that.
5 Q. And if it violated that duty, it should be held
6 accountable; correct?
7 A. Yes.
8 Q. Now Philip Morris over the course of 1954 to the
9 present time has placed ads in the newspapers and in
10 various journals and periodicals about its products;
11 correct?
12 A. Yes, I believe so.
13 Q. It's issued press releases about it; correct?
14 A. I believe so. I should say that I was overseas
15 a great part of my career with Philip Morris, but
16 I've been back here probably for the past decade or
17 so, so I can talk of that period.
18 Q. Well you know that the corporation, sir, since
19 1954, has made press releases and public statements
20 regarding its product; don't you?
21 A. I can certainly talk about the time that I've
22 been involved in the company, particularly since I've
23 been back in the United States.
24 Q. Well we're talking about a period from 1954 up
25 to today in this lawsuit. Do you understand that?

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1 A. Well I understand what you're saying, yes,
2 certainly.
3 Q. Okay.
4 A. But I cannot say that I do know what they've
5 been doing since 1954, because I was at school, I
6 think, in 1954 and just started work.
7 Q. So was I.
8 But you would assume that they were making
9 statements in the press about their products;
10 wouldn't you?
11 MR. BLEAKLEY: Your Honor, --
12 A. No, I wouldn't assume that.
13 Q. You wouldn't.
14 MR. BLEAKLEY: -- I object to the form of
15 the question.
16 THE COURT: Sustained.
17 Q. Have you looked at statements they have made
18 over the years?
19 A. I can't say I've looked at statements. I've
20 seen some. Certainly since the time that I've been
21 responsible for the business I've looked at them.
22 Q. You've seen the Frank Statement; correct?
23 A. I have seen it, yes.
24 Q. First time you saw the Frank Statement was when
25 you testified in front of Congress; correct?

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1 A. Yes. I --
2 Actually I had seen an excerpt of it at the 1994
3 congressional hearing.
4 Q. And that was the very first time you saw the
5 Frank Statement in a congressional hearing; correct?
6 A. That's quite right, yes.
7 Q. And it was provided to you by a congressman; is
8 that right?
9 A. Not provided to me. In fact he had it as an
10 exhibit at the hearing.
11 Q. Your lawyers didn't provide it to you; did they?
12 A. No. No. But I should add that I had not been
13 involved in the tobacco operations of America until
14 that time.
15 Q. Your lawyers didn't provide that to you;
16 correct?
17 A. No, my lawyers didn't provide anything to me.
18 Q. Nobody from the tobacco operations at Philip
19 Morris provided that to you; correct?
20 A. No, but I -- I really would like to -- to
21 amplify. I had just become responsible for the
22 tobacco operations in the United States. Prior to
23 that my entire responsibilities were our
24 international business outside the United States.
25 Q. Well --

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1 A. So I was not familiar. And I really do have to

2 emphasize that I was not familiar with the activities
3 in the United States.

4 Q. Sir, did you educate yourself about the
5 activities of the company when you took over as CEO?

6 A. When I took over as CEO, I can tell you exactly
7 what I did. When I took over as CEO, I concluded I
8 could do one of two things, --

9 Q. Sir --

10 A. -- I could spend the rest of my life looking
11 backwards to examine what had gone on for the last 40
12 years, or try and do something to resolve the issues
13 that have been confronting us.

14 Q. Sir, did you attempt to educate yourself about
15 the history of the company when you became CEO?
16 "Yes" or "no."

17 A. Which part of the history, sir, are you
18 referring to?

19 Q. The tobacco history of the company. Did you
20 attempt to do that?

21 A. I'm really not quite sure what you mean, "the
22 tobacco history." That's a long time.

23 Q. Yes.

24 A. Well I will explain --

25 Q. Did you did you attempt to familiarize yourself
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1 with the history of tobacco sold by Philip Morris
2 when you became CEO? "Yes" or "no."

3 A. No. The answer is no.

4 Q. Okay.

5 A. I decided to spend my time looking forward,
6 trying to resolve the issues that are confronting us.

7 Q. Now when Philip Morris issues press releases or
8 public statements, do they intend them to be
9 accurate?

10 A. Certainly.

11 Q. Do they intend the public to rely on them?

12 A. Certainly.

13 Q. Do they intend the consumers to rely on them?

14 A. Yes.

15 Q. To they intend the public health authorities to
16 rely on them?

17 A. Yes.

18 Q. Now you say you took over as CEO in 1994; is
19 that right?

20 A. June '94, yes.

21 Q. And you said you wanted to look forward. Is
22 that what you said?

23 A. That's exactly what I said.

24 Q. And one of the things you did is you called all
25 the lawyers together; correct?

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1 A. No. When you say one of the things I did,
2 called all the lawyers together, I had a meeting with
3 some lawyers.

4 Q. Yeah. You had a special meeting of all your
5 inside and outside counsel and you asked them, over
6 half a day, questions regarding their courtroom

7 tactics; correct?
8 A. No. Actually you refresh my memory. I
9 certainly did call together our counsel. That was
10 one of the things that I was very anxious to get a
11 handle on, to try to understand the litigation that
12 was confronting us, the magnitude of it, and what it
13 was we were doing about it. So I certainly did have
14 a meeting, yes, I did.

15 Q. And you also prepared an annual statement for
16 1994; didn't you?

17 A. I'm not quite sure what you mean.

18 Q. A -- well that was a poor question.

19 You prepared a letter to the shareholders to be
20 included in the annual statement; did you not, sir?

21 A. In the annual report.

22 Q. Yes.

23 A. In our '94 annual report, yes. That would have
24 been published around March of 1995.

25 Q. Okay. Can you turn to Exhibit 17624. It's in
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1 volume two, sir.

2 A. Yes, I have it.

3 Q. That's the 1994 annual report that was published
4 around March of 1995?

5 A. It's not a very good copy.

6 Yes, it's 1994.

7 MR. CIRESI: Your Honor, we'd offer Exhibit
8 17624.

9 MR. BLEAKLEY: No objection.

10 THE COURT: Court will receive 17624.

11 BY MR. CIRESI:

12 Q. Now can you direct your attention, sir, to the
13 Bates number -- and by "Bates number" I mean --
14 you'll see them on the right-hand side, the last
15 three digits 452. That's your dear shareholder
16 letter.

17 A. Yes.

18 Q. Now this is --

19 These are your words; correct?

20 A. Yes, they are my words.

21 Q. And you signed this on February 24th, 1995;
22 correct?

23 A. Yes.

24 Q. Now at the beginning you start out by telling
25 the shareholders you're delighted to tell them that

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1 on balance, '94 was a very good year for Philip
2 Morris; correct?

3 A. Yes.

4 Q. It was a year of continued robust growth;
5 correct?

6 A. Yes.

7 Q. It was a year where there was challenge and
8 change as a new management team worked vigorously to
9 defend the company against outside threats; correct?

10 A. Yes.

11 Q. Now the FDA at that time was looking to regulate

12 tobacco as a drug; wasn't it?
13 A. Yes.
14 Q. And that was one of the outside threats that you
15 were referring to here; isn't it?
16 A. Well yes, most certainly, because they -- they
17 were anxious to ban the product under that role.
18 Q. Sir, was that one of the threats you were
19 looking at?
20 A. Yes.
21 Q. And the FDA is discharged with the
22 responsibility to protect the public health; correct?
23 A. I believe that would be one of their charges,
24 yes.
25 Q. Now you then set forth here that net earnings
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1 were up 17.4 percent, earnings per share were up 19
2 percent, operating revenues were up, annual dividend
3 rate was up, operating cash flow is up; correct?
4 A. Yes.
5 Q. And right below that you state, "The immediate
6 priorities were clear: continue to grow profitably,
7 reward shareholders with higher returns, and work to
8 overcome obstacles that inhibit our success."
9 Correct?
10 A. Well I haven't quite found that. Can you just
11 direct me to it, please?
12 Q. Sure. It's right under the bullet points of the
13 revenues and cash flows going up, and you're talking
14 about what Bill Murray --
15 A. Ah, yes. I see, yes. Thank you.
16 Q. And you see overcome the obstacles?
17 A. Yes.
18 Q. And that overcoming of the obstacle was going to
19 be a top priority for you; wasn't it, in that year?
20 A. It was very important to me, yes.
21 Q. In fact you called it a top priority; did you
22 not?
23 A. Where did I call it that, sir?
24 Q. Well if you go on a couple pages where you see
25 defending your company.

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1 A. Uh-huh. Well I won't dispute it in any event.
2 Q. Okay.
3 A. It was very important to me.
4 Q. All right. If you could go back, then, to
5 growing the business.
6 A. Uh-huh.
7 Q. You state right after growing our business, "Our
8 one all-consuming ambition is to create wealth for
9 the owners of Philip Morris." Is that correct?
10 A. That's correct.
11 Q. You don't say there our equal all-consuming
12 ambitions is to create wealth and protect the public
13 health; do you?
14 A. Well I think that's taken for granted by most
15 companies, by any company.
16 Q. Did you say that, sir?

17 A. No, I didn't say that, sir. I didn't see a need
18 to say that.
19 Q. And the one all-consuming ambition was to create
20 wealth, which was your paramount consideration; isn't
21 that right?
22 A. It was one of my most important considerations,
23 sir.
24 Q. That's not what you say. You don't say this is
25 one of my most important, you say it's your one all-
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1 consuming --
2 A. Ambition.
3 Q. -- ambition. Isn't that right?
4 A. Ambition, yes, sir.
5 Q. And you point out that tobacco was firing on all
6 cylinders, setting new records in the U.S. and
7 achieving outstanding growth in international
8 markets; don't you?
9 A. Yes.
10 Q. And you point out that in the domestic tobacco
11 business, you adopted a pricing strategy for Marlboro
12 cigarettes; didn't you?
13 A. I can't find that. Could you --
14 Q. Right at the bottom.
15 A. Ah, yes. I see that, uh-huh.
16 Q. Do you recall doing that?
17 A. Most definitely.
18 Q. And that was lowering of the price; wasn't it?
19 A. Yes. That was referred to as Marlboro Friday.
20 It was quite a significant event.
21 Q. And the price was lowered how much, sir?
22 A. To my memory, about 40 cents a pack.
23 Q. Forty cents a pack.
24 A. Yes.
25 Q. And the volume of sales went up dramatically;
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1 didn't it?
2 A. Thereafter, yes.
3 Q. Yes.
4 A. Sales recovered. They'd come down significantly
5 and we recovered.
6 Q. They went up significantly; didn't they?
7 A. They came down and went up.
8 Q. And you're aware, are you not, that based on
9 market studies done by Philip Morris, that price is a
10 very sensitive issue for teen-agers who smoke.
11 A. I'm not aware of that. I'm aware that price of
12 any product is -- is something that's extremely
13 important.
14 Q. Is it more important for those who have less
15 money?
16 A. Price?
17 Q. Yes.
18 A. Yes.
19 Q. Would you agree with me that it's fair to assume
20 that, on balance, teen-agers have less money than
21 those people who are adults and in the working world?

22 A. Yes, I would say that's accurate.
23 Q. And did you couple this reduction of price with
24 a promotion campaign?
25 A. We certainly announced that we had reduced the
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1 price quite forcibly, yes.
2 Q. But did you have consumer incentive promotion
3 campaigns coupled with that reduction in price?
4 A. Not to my knowledge.
5 Q. Well --
6 A. To the best of my memory, we reduced the price
7 by 40 cents a pack and we had a very significant
8 promotional campaign or advertising campaign to make
9 that aware to the public.
10 Q. Right. So you had a tremendous advertising
11 campaign to make the public aware of that; is that
12 right?
13 A. We had a significant campaign. In fact, I don't
14 think we needed to do quite as much as we did because
15 it was such a -- an item of news.
16 Q. Didn't you just say you had a tremendous
17 advertising campaign?
18 A. Well "significant" I should have said.
19 Q. You should have said "significant."
20 A. I should have said "significant," yes.
21 Q. All right. Now let's see what you said to the
22 shareholders. "In our domestic tobacco business, our
23 pricing strategy for Marlboro cigarettes, coupled
24 with two enormously successful consumer incentive
25 programs, reversed previous share losses" --

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1 A. That's right.
2 Q. -- "and, in 1994, catapulted our best-selling
3 brand to its highest retail share ever." Correct?
4 A. That's right.
5 Q. So you did couple the pricing decrease with some
6 consumer incentive programs for Marlboro; --
7 A. Well --
8 Q. -- didn't you?
9 A. Well let me explain if I may. I don't think
10 there were conjointly. My memory was that we lowered
11 the price, and then subsequently we conducted a
12 promotion, which was what we call the continuity
13 program of Marlboro gear. So when you said
14 "coupled," the impression I got was that you meant we
15 did them together. I don't think we did do them
16 together, but I think we did them in that year. One
17 followed the other.
18 Q. Well I just used your words.
19 A. Well --
20 Q. "Coupled with two enormously successful consumer
21 incentives" --
22 A. I think that --
23 Q. Excuse me.
24 A. -- that was during the course of the year.
25 Excuse me.

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- 1 Q. Excuse me. You have -- remember, I have to let
2 you finish, you have to let me finish.
3 A. Certainly.
4 Q. Okay?
5 What you said was "coupled with two enormously
6 successful consumer incentive programs, reversed
7 previous share losses;" correct?
8 A. That's what it says. But I really was trying to
9 explain what that meant.
10 Q. And what you're saying is that the consumer
11 incentive programs came a little bit after the price
12 increase?
13 A. That's my memory. I think that's how it
14 happened. We reduced the price, I think, in April,
15 then the program followed sometime later in the year.
16 Q. Okay. Now what type of consumer incentive
17 programs were they, Mr. Bible?
18 A. My memory was it was a catalog where if you had
19 bought packs of Marlboro, there were -- there's a
20 little coupon on the side of each pack, and if you
21 collected the coupons, you could then write in or
22 send the coupons in, and depending on how many
23 coupons you had, you qualified to receive certain
24 types of gear.
25 Q. And what kind of gear?

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- 1 A. Well I can't be quite all that accurate, but
2 things like T-shirts or torches or jackets.
3 Q. What size were the T-shirts and jackets?
4 A. Well they would all -- all be in adult size.
5 Q. Are you sure?
6 A. Yes, I'm absolutely positive of that.
7 Q. What sizes were they when you say they were all
8 adult size?
9 A. Adult size. Because I --
10 Q. Well what size was that, sir?
11 A. I don't know exactly, but I can tell you this,
12 that the people who run Philip Morris U.S.A. have a
13 policy that all items of clothing that are made as
14 promotional items are made only in adult sizes, and I
15 know they do that.
16 Q. That's not what I asked you.
17 A. Uh-huh.
18 Q. I asked you if you knew what size they were at
19 this time.
20 A. I'm not sure what that means, actually.
21 Q. Now when you looked through this dear
22 shareholder letter, on the next page you talk about
23 maximizing shareholder value; correct?
24 A. Yes.
25 Q. And really, if we look at the letter, it's --

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- 1 it's divided into essentially four parts; correct?
2 A. Yes.

3 Q. First part is growing the business, and that's
4 where you have your one all-consuming ambition, to
5 create wealth; correct?
6 A. Yes.
7 Q. The next one is to maximize shareholder value;
8 correct?
9 A. Yes.
10 Q. Okay. And that talks about the tremendous cash
11 flow generated by your businesses; correct?
12 A. Well can you point me to that? I don't doubt
13 that it says that, but --
14 Yes, I -- I do see that. Okay.
15 Q. And it gave you a range of options; correct?
16 A. Uh-huh.
17 Q. And that would be you could use it for dividend
18 increases; correct?
19 A. Yes.
20 Q. Could use it for stock buybacks; correct?
21 A. Yes.
22 Q. You could use it for selective acquisitions and
23 debt reduction; correct?
24 A. Yes.
25 Q. And that would increase return; correct?

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1 A. Yes.
2 Q. Now this tremendous cash flow could have also
3 been devoted to other purposes; could it not? Had
4 you so decided.
5 A. Such as?
6 Q. Such as advertising to youth that they shouldn't
7 smoke. Significant monies. Could have done that;
8 couldn't you?
9 A. We had already introduced a program, I think,
10 sir, in that year.
11 Q. That's not what I asked you. The significant
12 cash flows, instead of going to dividend increases,
13 stock buybacks, selective acquisitions and debt
14 reduction, that money could have been used to
15 advertise to youth; couldn't it?
16 A. It certainly could have been, yes.
17 Q. That was an option that was available to you as
18 the head of this company; wasn't it, sir?
19 A. It certainly was, yes.
20 Q. Now the next section is defending the company;
21 correct?
22 A. Uh-huh, yes. Correct.
23 Q. And there you talk about the threat of FDA
24 regulation; correct?
25 A. Yes, I see that.

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1 Q. You talk about congressional hearings; correct?
2 A. Yes.
3 Q. You talk about negative media coverage; correct?
4 A. Well I don't see --
5 Oh, yes, I do see that. Yes.
6 Q. And you're talking about litigation; correct?
7 A. Yes.

8 Q. And you state that in the legal arena you're
9 going to commit all the resources necessary to defend
10 the company from new forms of litigation, making sure
11 we have better firepower than our foes, no matter how
12 formidable; correct?

13 A. Yes, that's correct.

14 Q. And in the very first paragraph of this
15 defending your company you say you're going to
16 protect the investment, our business and employees,
17 and the rights of consumers to enjoy our products are
18 all top priorities for this management team; correct?

19 A. Yes.

20 Q. And by "this management team," you were talking
21 about your management team; correct?

22 A. Yes. The management --

23 Q. Now --

24 A. -- team of Philip Morris, yes.

25 Q. Now in 1994, when you took over, did you go to
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1 the CTR and say, "I want to meet with all of the
2 eminent scientists of the Scientific Advisory Board
3 to see if they believe smoking causes disease?" Did
4 you do that?

5 A. No, I did not do that. The responsibility of
6 the CTR was the responsibility of Philip Morris
7 U.S.A. The chief executive officer of Philip Morris
8 U.S.A., I think, is on the board of the CTR, and that
9 was one of his duties. And I relied upon him for
10 that.

11 Q. You just relied on him.

12 A. I did, yes.

13 Q. Did you ask him, this man you relied on, "Have
14 you asked all of the scientists that are on the
15 Scientific Advisory Board of the CTR whether smoking
16 causes disease?"

17 A. No, I have not asked him that, no.

18 Q. You've not asked him that to this day; have you?

19 A. No, I have not.

20 Q. Did you ask the president of Philip Morris
21 U.S.A., "Can you find out what all of the grantees
22 who have received money from the CTR think on the
23 issue of whether smoking causes disease?" Did you
24 ask him that?

25 A. No, I've not asked him that, but I've asked my
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1 chief scientist that question.

2 Q. You've asked your chief scientist to ask the CTR
3 to survey all of their scientists to see what they
4 think?

5 A. No, I've not asked her that. I've asked her her
6 point of view on cigarette smoking and disease.

7 Q. And is that Cathy Ellis?

8 A. Yes, that's Dr. Cathy Ellis.

9 Q. Dr. Cathy Ellis. Well we'll get to her a little
10 bit later, sir. I now want to know what you did when
11 you took over this company when you said you wanted
12 to look forward and not look backward.

13 Did you say to the head of Philip Morris U.S.A.,
14 "Let's commission a blue ribbon panel of scientists
15 in the United States and let them tell us whether
16 smoking causes disease?" Did you do that?

17 A. No, I did not do that.

18 Q. Did --

19 A. Ah --

20 Q. Did you go to your fellow CEOs and say, "Let us
21 join together and get a blue ribbon panel of
22 scientists to tell us does smoking cause disease?"
23 Did you do that?

24 A. No, I did not do that, because I really felt
25 that everybody in the world believes smoking causes

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1 disease.

2 Q. You don't; do you, sir?

3 A. I don't know.

4 Q. Yeah. But you just said everybody in the world
5 believes it. Everybody but Mr. Bible; is that right?

6 A. Well I don't know. There may be others who
7 agree with me.

8 Q. Well how about Dr. Glenn, the head of the CTR,
9 do you know if he agrees with you or not?

10 A. No. I've not spoken to Dr. Glenn.

11 Q. How about Mr. Merryman, do you know if he agrees
12 with you or not?

13 A. I've not spoken to Mr. Merryman.

14 Q. Have you read Mr. Merryman's testimony in this
15 case?

16 A. No, I've not.

17 Q. Have you read Dr. Glenn's testimony in this
18 case?

19 A. No, I've not.

20 Q. Do you know how many children have started to
21 smoke over the last 50 years in this country?

22 A. No, I have no idea.

23 Q. Do you know how many have died as a result of
24 smoking?

25 A. How many people have died?

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1 Q. Died.

2 A. I don't know if anybody has died. I just don't
3 know, no.

4 Q. And you haven't asked your head of Philip Morris
5 U.S.A., "Let's go to the CTR and get the top
6 scientists and find out." You haven't; have you,
7 sir?

8 A. But I think the CTR was already conducting
9 research of that nature. I thought it was -- CTR's
10 job was to use funds to direct monies towards
11 smoking-and-health research.

12 Q. Have you ever looked at what they did?

13 A. No. I told you I'd been at my job a short time,
14 and I was very new to this situation, and I concluded
15 I had one of two courses to follow. One was to look
16 backwards. I could have spent the rest of my life
17 looking backwards. I -- the other was to look

18 forward. And I have spent the last three or four
19 years doing my utmost to try to find a resolution to
20 the issues surrounding this industry, particularly
21 youth smoking.
22 Q. Sir, in the four years that you've been CEO and
23 you wanted to look forward, have you had a concern
24 whether or not people are dying from your product?
25 "Yes" or "no."

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1 A. Well of course I've been concerned about it.
2 Q. All right. Now in light of that concern, have
3 you said to anybody who has authority within your
4 company or the industry, "Let's get a blue ribbon
5 committee of renowned scientists in the United States
6 or the world and let them tell us whether smoking
7 causes disease?" Have you done that?
8 A. No, I've not done that. But I believe it's
9 being done by the federal government and I believe
10 other countries around the world have done the same
11 thing, and I believe the results of that research is
12 very well known.
13 Q. But you don't accept it. You still say it
14 doesn't cause it. Your company says smoking doesn't
15 cause disease; don't you?

16 MR. BLEAKLEY: Objection, Your Honor, no
17 one has testified to that. That is a statement of
18 counsel.

19 THE COURT: Counsel, counsel, do you have a
20 legal objection?

21 MR. BLEAKLEY: I have an objection to that.

22 THE COURT: And what's your objection?

23 MR. BLEAKLEY: The lawyer is testifying.

24 THE COURT: You may answer the question.

25 MR. CIRESI: Can you answer the question?

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1 THE WITNESS: Could you repeat the
2 question, please.

3 MR. CIRESI: May I have the question back,
4 Mr. Stirewalt.

5 (Record read by the court reporter.)

6 A. I say I don't know. I just don't know. It may,
7 but I don't know.

8 Q. Has your company said publicly smoking causes
9 disease?

10 A. Our company has said that cigarette smoking may
11 cause disease --

12 Q. No, --

13 A. -- but we don't know.

14 Q. -- that's not what I asked you. Has your
15 company said smoking causes disease?

16 A. Not to my knowledge, no.

17 Q. Do you know that the World Health Organization
18 says that smoking causes disease?

19 A. Yes.

20 Q. Do you know that the AMA says that smoking
21 causes disease?

22 A. Yes.

23 Q. Do you know that the American Cancer Society
24 says that smoking causes disease?
25 A. (Coughing) Excuse me.
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1 Yes, I do.
2 Q. Do you know that the American Lung Association
3 says that smoking causes disease?
4 A. Yes, I do.
5 Q. Do you know that the Surgeon General since 1964
6 has said that smoking causes a variety of diseases?
7 A. Yes. Yes, I'm aware of that.
8 Q. Are you aware of any reputable scientific
9 organization anywhere in the world that says that
10 smoking doesn't cause disease?
11 A. No, I am not.
12 Q. Not a one.
13 A. Not a one.
14 Q. Is that right?
15 A. No, sir, I'm not.
16 Q. Sir, in this four-part letter to the
17 shareholders, where is your commitment to the public
18 health? Where do you state we are committed to the
19 public health?
20 A. Well I -- I've not read this. I would need to
21 read it. But my -- my sense is it's probably not
22 included here. It's a letter to stockholders,
23 generally informing them of the performance of the
24 company throughout the course of the year.
25 Q. Don't you think the shareholders might want to
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1 know whether or not your company is committed to the
2 public health?
3 A. They may do. I think they feel that we are
4 committed to the public health.
5 Q. Not a word about the public health in your
6 letter to the shareholders when you took over this
7 company; is there, sir?
8 A. Well --
9 There is not. And there's not a word about many
10 things, actually.
11 Q. Where in this letter do you say that you're
12 going to cooperate with public health authorities?
13 A. Well I don't think it's there, without reading
14 it.
15 Q. Can you direct your attention to Exhibit 14145.
16 THE COURT: Counsel, do you expect to be
17 going for a while yet?
18 MR. CIRESI: I do, Your Honor.
19 THE COURT: Maybe we should recess for
20 lunch.
21 We'll recess, reconvene at 2:00 o'clock.
22 THE CLERK: Court stands in recess.
23 (Recess taken.)
24
25

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(In-chambers conference as follows:)

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(In-chambers conference concluded.)

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1 AFTERNOON SESSION.
2 THE CLERK: All rise. Court is again in
3 session.
4 (Jury enters the courtroom.)
5 THE CLERK: Please be seated.
6 THE COURT: Counsel.
7 MR. CIRESI: Thank you, Your Honor.
8 Good afternoon, ladies and gentlemen.
9 (Collective "Good afternoon.")
10 BY MR. CIRESI:
11 Q. Good afternoon, Mr. Bible.
12 A. Good afternoon, sir.
13 Q. Can you direct your attention to Exhibit 14145
14 in volume two. Sir, that's the Frank Statement to
15 smokers?
16 A. Yes.
17 Q. And I believe earlier you testified that you
18 first saw that when you were in Congress in 1994; is
19 that correct?
20 A. I don't think I saw the whole statement, I saw
21 excerpts of it. That's my best recollection.
22 Q. Did you ask for the whole statement at that
23 time?
24 A. No, I didn't.
25 Q. Did you ask for it after that time?

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1 A. No, I didn't.
2 Q. Have you ever looked at the whole statement?
3 A. No, I haven't.
4 Q. So today is the first time you're going to look
5 at the entire Frank Statement; is that right?
6 A. That's correct, sir, yes.
7 Q. Didn't you have curiosity as to what
8 representation your company made to the American
9 public back in 1954?
10 A. Well I'd heard comments about it and I'd seen an
11 excerpt in Congress, but frankly, as I said early in
12 my testimony, I really am focused on the future and
13 not the past.

14 Q. Ah, the future and not the past.
15 How many people in this country today have lung
16 cancer or chronic obstructive pulmonary disease and
17 are sitting in their homes suffering as a result of
18 smoking who got that disease from your product over
19 the course of the last 30 years? Do you know how
20 many?
21 A. No. I'd have no idea, sir.
22 Q. Do you think they're concerned about their
23 future?
24 A. Oh, I'd have thought they're very concerned,
25 yes.

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1 Q. Do you think think maybe they're concerned about
2 how it is they got that way?
3 A. Yes, I would expect so.
4 Q. Do you think the CEO of the company who may have
5 put them in that condition has an obligation to look
6 at the history of the company in order to chart the
7 future of the company?
8 A. If you're referring to my looking back at the
9 Frank Statement in order to chart the future for the
10 company, I really think I knew enough about the
11 assertion in the Frank Statement to help me formulate
12 my views on how I should chart the future.
13 Q. You did.
14 Did you look back to see whether your company
15 lied in the past to the American public?
16 A. I didn't do that.
17 Q. Did you look back and see whether your company
18 misrepresented to the American public in the past?
19 A. No, I didn't do that.
20 Q. Did you look back to see whether your company
21 knew for over 40 years that smoking caused lung
22 cancer?
23 A. No, I didn't do that because I didn't believe
24 Philip Morris knew that smoking caused lung cancer
25 for the past 40 years.

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1 Q. Can you look to Exhibit 11028, please.
2 A. That's in the other book, is it?
3 Q. It's in volume one, sir.
4 Do you see that that's a report on a visit to
5 the United States and Canada between April 17th and
6 May 12th, 1958, by three gentlemen, Mr. Bentley, Mr.
7 Felton and Mr. Reid?
8 A. Well three persons.
9 Q. Three people, yes.
10 A. Yes.
11 Q. And can you turn to the next page, sir. Do you
12 see the itinerary?
13 A. Yes.
14 Q. And do you see the companies and institutions
15 that those individuals visited?
16 A. Yes.
17 Q. And is one of those companies Philip Morris in
18 Richmond, Virginia?

19 A. Yes.
20 Q. And that's your Philip Morris; correct?
21 A. Well I can think of no others, sir. Yes.
22 Q. And they visited Mr. Seligman, do you see that?
23 A. Yes.
24 Q. And Mr. O'Keefe, do you see that?
25 A. Yes.

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1 Q. And you know that Mr. O'Keefe was the head of
2 your research and development --
3 A. No, I --
4 Q. -- at that time?
5 A. No, I don't know that.
6 Q. Do you know that Mr. Seligman -- or Dr. Seligman
7 came on to be the head of research and development?
8 A. I recall that, uh-huh.
9 Q. You heard about him this morning when you were
10 viewing Mr. Morgan's deposition; didn't you?
11 A. I heard his name, yes.
12 Q. Is that the first time you heard his name?
13 A. No. I'd heard his name.
14 Q. Okay. So you knew he had been the head of
15 research and development at Philip Morris; didn't
16 you?
17 A. Yes, I think I did. I've never met him.
18 Q. And you recognize the other institutions and
19 companies on this page?
20 A. Well I can read --
21 Some of them I recognize. Others I didn't, I'm
22 not familiar with.
23 Q. Certainly you're familiar with The American
24 Tobacco Company.
25 A. Yes, I am.

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1 Q. You're familiar with the Medical College of
2 Virginia?
3 A. Well I'm not familiar with it, but I presume it
4 exists, yes.
5 Q. Are you aware of Duke University?
6 A. Yes, I have heard of Duke University.
7 Q. Certainly you're aware of Liggett & Myers.
8 A. Yes, I am.
9 Q. Are you aware of A. D. Little?
10 A. Yes. I know of them.
11 Q. And you're aware of the TIRC, which became the
12 CTR; correct?
13 A. Well actually I didn't know that.
14 Q. You didn't know that.
15 A. No.
16 Q. You didn't know The Council for Tobacco Research
17 was formerly known as TIRC?
18 A. No, I didn't know that.
19 Q. Nobody's ever told you that.
20 A. Not to my knowledge certainly.
21 Q. Are you familiar with Roswell Park Memorial
22 Institute in Buffalo?
23 A. No, I've never heard of that.

24 Q. Are you familiar with Yale University?
25 A. Well yes, I've heard of Yale University.
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1 Q. Are you familiar with the Biological Research
2 Institute in Cambridge?
3 A. No, I'm not.
4 Q. Are you familiar with Roscoe Jackson Laboratory
5 in Bar Harbor?
6 A. No, I'm not.
7 Q. Familiar with the National Cancer Institute in
8 Bethesda, Maryland?
9 A. I've heard the name, but I didn't know where it
10 was located.
11 Q. Are you familiar with Johns Hopkins Hospital in
12 Baltimore?
13 A. Yes, I've heard of that.
14 Q. Are you familiar with New York University?
15 A. Yes, I am.
16 Q. Are you familiar with Sloan-Kettering Institute
17 in New York?
18 A. Yes. Yes, I am.
19 Q. Leading cancer institute; correct?
20 A. Well it is a leading. I'm not -- I don't know
21 it is the leading.
22 Q. A leading cancer institute?
23 A. Absolutely, yes.
24 Q. Now can you go to the next page, sir. Do you
25 see on page two that these three individuals were

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1 seeking information on certain issues?
2 A. Yes, I can read that.
3 Q. And one of them was the extent to which it is
4 accepted that smoke -- cigarette smoke causes lung
5 cancer. Do you see that?
6 A. Yes, I read that.
7 Q. Now if you go down to the first paragraph,
8 "'CAUSATION' OF LUNG CANCER," do you see that?
9 A. Yes, I see that.
10 Q. "With one exception (H.S.N. Greene)" --
11 Now he was the individual at Yale. Do you
12 remember that from the previous page?
13 A. Well no, I didn't remember that, but I'll accept
14 it.
15 Q. All right.
16 -- "the individuals whom we met believe that
17 smoking causes lung cancer, if by 'causation' we mean
18 any chain of events which leads finally to lung
19 cancer and which involves smoking as an indispensable
20 link. In the U.S.A. only Berkson apparently is now
21 prepared to doubt the statistical evidence, and his
22 reasoning is nowhere thought to be sound. Hueper of
23 the National Cancer Institute accepts that cigarette
24 smoke is capable of causing lung cancer but believes
25 that as compared with other environmental carcinogens

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1 the contribution of smoking to the total mortality
2 from lung cancer is being greatly exaggerated."
3 Do you see that, sir?
4 A. Yes, I see that.
5 Q. Now two of the individuals whom they met on that
6 day were the people from the research and development
7 department of Philip Morris Company; correct?
8 A. On that day?
9 Q. On that trip. Excuse me.
10 A. On that trip.
11 Q. Yeah.
12 A. That's right, yes.
13 Q. And they are not excepted from this statement;
14 are they?
15 A. That's the conclusion that I would draw, yes.
16 Q. Have you ever seen this document before?
17 A. No, I have not seen this document.
18 Q. One of the reasons I asked you whether you
19 looked into the history of your company is because,
20 by looking into the history of a company, you can
21 find out what they knew at given points in time.
22 Would you agree with that?
23 A. That's highly likely, yes.
24 Q. Okay. It's not only highly likely, it's
25 probably a certainty; isn't it, sir?

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1 A. Well it would depend, I guess.
2 Q. And you can look back and see what they knew at
3 a given point in time; correct?
4 A. That --
5 I think that again is highly likely, yes.
6 Q. And you can see, then, what they did with that
7 information; correct?
8 A. You should be able to.
9 Q. You can see whether or not they disclosed that
10 information; correct?
11 A. Well you should be able to, yes.
12 Q. And by doing that you can determine and
13 ascertain whether or not they complied with the duty
14 that you talked about earlier; can't you?
15 A. That you raised with me. Yes, you should be
16 able to, uh-huh.
17 Q. And you have never asked anyone in your company
18 to put together all of the documentation regarding
19 the cause of lung cancer and what the company knew at
20 given points in time for you to review it; have you?
21 A. No, I have not done that. But I explained to
22 you why this morning, I think, why I have not done
23 that.
24 Q. You've never asked anybody in your company to do
25 that; have you?

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1 A. I've not asked anybody to compile a history
2 along the lines that you suggested, no, I have not.
3 Q. And because you haven't asked, you don't know if
4 anybody ever has; do you?

5 A. No, I don't know if anybody has asked exactly
6 that.
7 Q. Nobody's ever told you they've ever done that;
8 have they?
9 A. No, nobody's ever told me that, no. I think
10 that's right.
11 Q. Dr. Cathy Ellis has never told you that; has
12 she?
13 A. No. I've never asked her that and she's never
14 told me that, to the best of my knowledge.
15 Q. So as you sit here today, what you're testifying
16 to to the court and to the jury is that you don't
17 know what the history of the company is with regard
18 to whether it knew smoking caused lung cancer.
19 A. Well I could elaborate upon it a little bit if
20 you'd let me.
21 Q. Well your lawyer will have the opportunity to
22 ask you all kinds of questions. I just want to know
23 whether or not you can answer my question, sir.
24 A. Well could you repeat the question?
25 MR. CIRESI: Certainly. Could we have the
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1 question back, please.
2 (Record read by the court reporter.)
3 A. I think that's a fair assessment of my position,
4 yes.
5 Q. And you do know that from 1954 right up to
6 today, Philip Morris has never ever said smoking
7 causes lung cancer.
8 A. I think that's a fair, accurate description. We
9 have made our position very clear on it.
10 Q. Can you turn to the last two pages of this
11 document, sir. Down at the bottom you see where it
12 says "CONCLUSIONS?"
13 A. Yes.
14 Q. Number one, "Although there remains some doubt
15 as to the proportion of the total lung cancer
16 mortality which can fairly be attributed to smoking,
17 scientific opinion in U.S.A. does not now seriously
18 doubt that the statistical correlation is real and
19 reflects a cause-and-effect relationship." Do you
20 see that?
21 A. Yes, I read that.
22 Q. And that's in 1958; correct?
23 A. Actually I'm battling to find the date.
24 Q. First page.
25 A. Yeah. Here we are, right, '58.

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1 Q. Forty years, almost to the day; isn't that
2 correct?
3 A. That's correct.
4 Q. And if you go on to the second -- next page,
5 you'll see the following statement, sir, at number
6 three: "The direct carcinogenicity of smoke
7 condensate to animal tissue, which is consistent with
8 direct causation, is now fully confirmed but the
9 evidence so far obtained makes it unlikely that this

10 activity is due to any single 'carcinogen' in smoke;"
11 correct?
12 A. Well that's what it says. Could I read it again
13 to try to take it in, because it's --
14 Q. Certainly.
15 A. -- a bit complicated.
16 That's what it says, yes.
17 Q. Now, you know that there are many carcinogens in
18 cigarette smoke; correct?
19 A. Yes, I think there are. I think -- I --
20 I don't know how many.
21 Q. You don't remember how many.
22 A. No, I don't.
23 Q. Do you know if any of them is a super
24 carcinogen?
25 A. I've never heard that term before.

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1 Q. Have you talked to your doctors at the company
2 about the number of carcinogens in cigarette smoke?
3 A. Yes, I have, but I've just forgotten the number,
4 quite frankly.
5 Q. Have you asked them whether there was any super
6 carcinogen?
7 A. I've never heard the term to ask them, so --
8 Q. And did they tell you that the direct
9 carcinogenicity of smoke condensate to animal tissue
10 is consistent with direct causation?
11 A. No, no, they have not. This --
12 This was a report, I think, developed by B.A.T;
13 was it not?
14 Q. Yes.
15 A. So --
16 Q. A tobacco company; correct?
17 A. Yes, but not Philip Morris.
18 Q. Yes. But they came over, they visited Philip
19 Morris; correct?
20 A. Yes. But Philip Morris didn't write this paper,
21 I don't think.
22 Q. Do you think these people were lying?
23 A. I don't know what they were doing. But I can't
24 really testify to what they were writing here.
25 Q. Do you have any reason to believe they were

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1 lying?
2 A. I have no reason to believe they were lying at
3 all.
4 Q. Do you have any reason to believe that they were
5 other than saying the truth when they were reporting
6 on what they observed and listened to when they were
7 in the United States?
8 A. No, I have no reason to believe that at all. I
9 think all I'm trying to say is this was not a
10 document that Philip Morris scientists wrote.
11 Q. Did anybody tell you that these people were not
12 telling the truth?
13 A. I've never heard of these people before, sir.
14 Q. Did anybody provide you with a document which

15 said these people were not telling the truth?
16 A. No. I've never heard of these people before.
17 Q. Now you know if Philip Morris, for the last 40
18 years, has eliminated any of the carcinogens in its
19 tobacco smoke?
20 A. Not to my knowledge, no.
21 Q. Never. Not one. Correct?
22 A. I think because they don't know how to.
23 Q. Pardon me?
24 A. I think because they don't know how to.
25 Q. They don't know how to.

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1 A. That would be my understanding.
2 Q. Have you taken a full-page ad in the paper, Wall
3 Street Journal or anyplace, telling the consuming
4 public, "We have carcinogens in our tobacco smoke and
5 we don't know how to remove them?"
6 A. No. But I think that's widely understood by the
7 general public. The Surgeon General I think has
8 reported upon that.
9 Q. But do you accept the Surgeon General on that?
10 A. I accept the Surgeon General's report on that,
11 yes.
12 Q. Oh, you do. But you don't accept it on
13 causation; right?
14 A. Well I think I reserve the right to disagree.
15 Q. But you agree with him on the fact that there
16 are carcinogens in tobacco smoke.
17 A. Yes, I do.
18 Q. Now my question was different. Have you ever,
19 the company, ever taken out full-page ads and say,
20 "We have carcinogens in our tobacco smoke and we
21 don't know how to get rid them?"
22 A. No, we have not.
23 Q. Now you will agree that if a company makes a
24 statement about having carcinogens in its product,
25 that that has more impact upon the public than

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1 whether some doctor or somebody else made it;
2 wouldn't you?
3 A. Could you repeat the question again, please?
4 Q. Sure.
5 You would agree that when a company makes a
6 statement about the carcinogens in its product, that
7 has much more impact upon the consuming public than
8 if some third party does.
9 A. I think that's a fair comment, yes.
10 Q. If I told you and asked you to assume that Dr.
11 Glenn from the CTR testified to the same thing, you'd
12 agree with him; correct?
13 A. Did he say the same as I said?
14 Q. Yes.
15 A. Yes, I'd agree with him.
16 Q. So that if all these companies, including yours,
17 would have taken out ads telling the American public
18 what you knew internally, that would have a greater
19 impact than what some third party might do; wouldn't

20 it?
21 A. What we knew and what had been published in the
22 Surgeon General's report, that's what you mean?
23 Q. No, what you knew.
24 A. Yes. I agree with you, yes.
25 Q. Now sir, did Philip Morris ever tell the public
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1 that they'd take out carcinogens if they found them?
2 A. Oh, I don't know about that. I have no
3 recollection of that, sir.
4 Q. Do you know Joseph Cullman III?
5 A. Yes, I do.
6 Q. Sits on your board as a chairman emeritus;
7 doesn't he?
8 A. That's right.
9 Q. You invite him to board meetings; don't you?
10 A. Yes, I do.
11 Q. He holds in excess of a hundred million dollars
12 of stock in the company; doesn't he?
13 A. I don't know.
14 Q. Well you know the major shareholders of your
15 company; don't you, sir?
16 A. I do know the major shareholders, but I didn't
17 know that Joseph Cullman was one of the major
18 shareholders.
19 Q. You know he's a substantial shareholder in the
20 company.
21 A. Well frankly I don't know, but I do know he has
22 shares, and I would have thought he would have quite
23 a few, but frankly, I don't know how many.
24 Q. You invite him, then, to sit in on board
25 meetings; correct?

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1 A. Absolutely, yes.
2 Q. He was the former chairman and CEO of the
3 company; correct?
4 A. Yes.
5 Q. Can you turn to Exhibit 10492, please, which
6 would be in volume one. This is a transcript from
7 Face the Nation, produced by Philip Morris in this
8 case, regarding an interview of Joseph Cullman III,
9 chairman of the board, Philip Morris Inc. Do you see
10 that, sir?
11 A. Yes, I do.
12 MR. CIRESI: Your Honor, we'd offer Exhibit
13 10492 pursuant to 903(6), 803(16), and 801(d)(2).
14 MR. BLEAKLEY: No objection.
15 THE COURT: Court will receive 10492.
16 BY MR. CIRESI:
17 Q. Now sir, can you turn to page four. And if you
18 want to take a look at any other part of the
19 interview, please let me know and you can take a look
20 at it.
21 I'm interested in Mr. Cullman's response on page
22 four, about the middle of the page where it says, "We
23 are very concerned...."
24 A. Uh-huh.

25 Q. "...also very concerned...." Do you see that?
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1 A. Yes.
2 Q. "We are also very concerned about the charges
3 leveled against our product, and we are anxious to do
4 whatever we can to clear the air in this matter. We
5 happen to be optimistic about the future, and we
6 happen to feel that this is a great industry, and
7 that this industry can face the future with
8 confidence because when, as, and if any ingredient in
9 cigarette smoke is identified as being injurious to
10 human health, we are confident that we can eliminate
11 that ingredient." Do you see that?
12 A. Yes, I do.
13 Q. Now that's the CEO, chairman of the board of
14 Philip Morris making that representation; correct?
15 A. Yes. Yes. Correct.
16 Q. And you just said you can't eliminate them;
17 didn't you?
18 A. I don't know that we've been able to eliminate
19 what you talked about.
20 Q. You just said we can't eliminate them; didn't
21 you?
22 A. Well yes, I think that is what I said, yes.
23 Q. And what Mr. Cullman said on January 3rd, 1971
24 was false; wasn't it?
25 A. Well I think he said we are confident that we

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1 can eliminate.
2 Q. Well that doesn't --
3 Don't you take that to mean we can eliminate
4 them?
5 A. Well I think he was hoping that he could.
6 Q. Ah. Did he say we are hoping we can?
7 A. No, he said we are confident.
8 Q. And he intended the American public to rely on
9 that, didn't he?
10 A. Well I would expect so, yes.
11 Q. He said it; correct?
12 A. He said it, yes. That was some 20 years ago,
13 and I think time since has shown that we're unable
14 to.
15 Q. Well, do you know if Philip Morris has known for
16 40 years that they couldn't eliminate carcinogens
17 that they knew were in their product?
18 A. Well I don't know if we've known that for 40
19 years.
20 Q. You wouldn't know that unless you looked at the
21 history; would you, sir?
22 A. Well that's probably a fair comment, yes.
23 Q. Could we go back to the Frank Statement.
24 A. Could you remind me which that is, sir?
25 Q. Certainly. 14145.

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1 A. That is in the other book.
2 Q. It is indeed, sir. Volume two.
3 A. Okay.
4 Q. I want to take you through it since you've never
5 read it before. Can you look in the first column.
6 Now first of all, a frank statement, that's meant to
7 be an honest statement; correct?
8 A. I would agree.
9 Q. A candid statement; correct?
10 A. Yes.
11 Q. A statement that the industry, including your
12 company, intended consumers to rely on; correct?
13 A. Yes.
14 Q. And in the first paragraph -- or I'm sorry, in
15 the first column toward the bottom, do you see down
16 there, "We accept an interest in people's health as a
17 basic responsibility, paramount to every other
18 consideration in our business?" See that?
19 A. Yes, I -- I can read that.
20 Q. Now if you had known about that in 1994, would
21 you still have put in your 1994 annual report that
22 your one all-consuming ambition was to create wealth
23 for your shareholders?
24 A. Well it's a little hard for me to answer that in
25 the abstract. You know, I have learned about that

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1 element of this statement, of the Frank Statement,
2 because I think that was part of what I saw at the
3 congressional hearing in 1994, and I've thought a bit
4 about that since I had my job and, you know, a lot of
5 times past, and I don't doubt the sincerity of what
6 people meant when they made this statement, but it
7 seems to me that a lot has transpired in the
8 meantime -- as you pointed out, it's 44 years
9 ago -- and during that time the Surgeon General's
10 reports have come out, I think it was in 1964 the
11 Surgeon General told the American public that he
12 thought cigarette smoking caused cancer, and then
13 subsequent reports, as you pointed out, dealt with
14 cigarette smoking. I think in 1969 warning labels
15 were placed on cigarette packs and Congress mandated
16 that. And I think a lot of information has become
17 what I would call general public knowledge about
18 cigarette smoking.

19 In fact I doubt, as I think I said earlier in my
20 testimony this morning, that there's hardly a subject
21 that's been more talked about than cigarette smoking
22 and the risks of cigarette smoking. And we ourselves
23 have changed our position as much as we've said that
24 cigarette smoking is a significant risk factor in
25 many diseases.

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1 Q. Is that your answer?
2 A. Yes, that's my answer.
3 Q. Well is your answer, then, no?
4 My question is pretty simple, and let me repeat
5 it for you. If you had known about the Frank

6 Statement when you wrote your letter to the
7 shareholders, would you have put in the letter to
8 shareholders, "Our one all-consuming ambition is to
9 create wealth?" Would you have written that?
10 A. I think that I would have thought about it.
11 It's a bit hard for me to say now what I would have
12 written. Because I look at the annual report as
13 being an annual report to our stockholders who are
14 looking generally to the economic performance of the
15 company throughout the course of the year, and I
16 don't know if I would have used that language
17 exactly.

18 But I doubt that I would have chosen that
19 vehicle if I was going to say something about this
20 particular statement.

21 Q. Do you believe that because the Surgeon General
22 said cigarette causes disease, which you don't
23 accept, that the company no longer has as its
24 paramount responsibility an interest in people's
25 health, paramount to every other consideration in its

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1 business? Is that what you're saying?

2 A. No. What I'm saying is that I believe that's
3 one of the most serious responsibilities I have,
4 among many others.

5 Q. One of the most. I know that's what you're
6 saying.

7 In 1954, though, a representation was made to
8 the American public; wasn't it, sir?

9 A. Yes.

10 Q. And that representation was we accept an
11 interest in people's health as a basic
12 responsibility, paramount to every other
13 consideration in our business; correct?

14 A. That's right.

15 Q. That means number one; doesn't it?

16 A. Yes. Paramount, I would say, does mean number
17 one, yes.

18 Q. And when it says number one to every other
19 consideration, that means over dividends; correct?

20 A. Yes, it would be. It would --

21 I would say paramount means number one to every
22 consideration. But to answer your question, I today
23 see it as being one of the most serious
24 responsibilities I have, --

25 Q. I didn't ask you that.

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1 A. -- among many others.

2 Q. It means number one over buying back stock;
3 doesn't it?

4 A. Yes.

5 Q. It means number one over any other consideration
6 that would be in that company; correct?

7 A. You mean back in 1954?

8 Q. Yes.

9 A. Yes.

10 Q. Now has the company ever retracted that

11 statement? And if so, tell me where.
12 A. No, it has not, to my knowledge. It may have,
13 but it has not to my knowledge.
14 Q. When you became aware of it, you didn't retract
15 it; did you?
16 A. No, but I explained why.
17 Q. Excuse me. You didn't retract it.
18 A. No, I did not retract it.
19 Q. You haven't instructed anybody to retract it;
20 have you?
21 A. No, I have not.
22 Q. Another representation that was made was: "We
23 believe the products we make are not injurious to
24 health." Do you see that?
25 A. Yes, I do see that.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

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1 Q. Is cancer injurious to health?
2 A. Oh, very much so.
3 Q. Is chronic obstructive pulmonary disease
4 injurious to health?
5 A. Yes.
6 Q. Is coronary heart disease injurious to health?
7 A. Yes.
8 Q. When did the company retract this statement?
9 A. Not to my knowledge.
10 Q. Never; correct?
11 A. No, I -- I don't have any knowledge of it being
12 retracted. I think we have warning labels on our
13 cigarette packs that were mandated by Congress.
14 Q. You don't have warnings. Those are warnings
15 mandated by the government; correct?
16 A. But they're on every pack we make.
17 Q. But you wouldn't put them on if the government
18 didn't mandate it; would you?
19 A. Well I don't know. They are on there now.
20 Q. You wouldn't put it on; would you, sir?
21 A. I don't know, sir.
22 Q. You know that you only put on warnings as they
23 are required in any country that you operate; isn't
24 that right?
25 A. They're mandated by the government.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

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1 Q. Yeah. You don't put on any greater warning; do
2 you?
3 A. Sir, we are required by the government to put
4 exactly those warnings on and nothing else.
5 Q. You never put on any greater warning; do you?
6 A. Sir, we are required by law to put exactly that
7 wording on. We can't put on any greater wording.
8 Q. Do you know what Liggett puts on its labels
9 today?
10 A. I beg your pardon?
11 Q. Do you know what Liggett puts on its warnings?
12 A. Which labels?
13 Q. Of its cigarettes.
14 A. Which cigarettes?
15 Q. That Liggett manufactures. Do you know what

16 they put on?
17 A. No.
18 Q. Do you know if their warnings go beyond the
19 warnings that you have?
20 A. Well I know that they put new warnings on some
21 of their cigarettes that were as a result of the
22 settlement agreement they made with some attorneys
23 general, I believe, --
24 Q. Right.
25 A. -- and class action lawyers.

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1 Q. And they go beyond the warnings that you have;
2 correct, sir?
3 A. They are different and they do go beyond, yes.
4 Q. Yes. And the government allowed them to do
5 that; didn't they?
6 A. You -- you were saying around the world. I was
7 really telling you that is not right, what you were
8 saying.
9 Q. I see.
10 A. Yes.
11 Q. In the United States, sir.
12 A. In the United States we're required to put those
13 warnings on, and they're on the packs.
14 Q. And you can put greater warnings on; can't you?
15 A. Yes, we could if we so desired, yes.
16 Q. And you've never so desired; have you?
17 A. We have not changed those warnings, no.
18 Q. And --
19 Because you've never so desired. Your words;
20 correct?
21 A. That's quite right.
22 Q. Those weren't my words; were they?
23 A. No, they were my words.
24 Q. All right. Now the next representation that
25 your company made was: "We have -- always have and

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1 always will cooperate closely with those whose
2 safeguard -- whose task it is to safeguard the public
3 health." Correct?
4 A. Yes.
5 Q. Never retracted that; have you?
6 A. Well I would challenge that, actually.
7 Q. Sir, have you ever retracted that statement?
8 And by "you" I mean your company.
9 A. I find a very close line. And if I could
10 explain, you could determine yourself whether we have
11 retracted it or not, because I find it difficult to
12 answer.
13 Q. I just want to know if you've -- if you've gone
14 out and said we retract the statement we made. It's
15 no longer operative. Have you said that?
16 A. Well --
17 Q. I'm not --
18 A. -- perhaps I'll have -- perhaps I'll have a
19 chance to explain later. I don't believe we have
20 retracted that exact statement, no.

21 Q. And the FDA is one of the institutions in this
22 country whose duty it is to safeguard the public
23 health; correct?
24 A. Yes.
25 Q. And you're fighting the FDA; aren't you?
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1 A. We have a lawsuit with the FDA.
2 Q. And you're fighting whether you want to be
3 regulated as a drug; correct?
4 A. There are a number of issues at stake.
5 Q. That's an issue; isn't it, sir?
6 A. That is one of them.
7 Q. And what you're concerned about is whether or
8 not nicotine will be mandated to be removed from
9 cigarettes; isn't that right?
10 A. No. I would cast it differently.
11 Q. Is one of the issues you're concerned about the
12 regulation of nicotine?
13 A. No, not really. I would say partially.
14 Q. Partially.
15 A. Hmm.
16 Q. And you don't want nicotine to be ratcheted
17 down; do you?
18 A. Well that's rather a complicated question. I'll
19 explain it to you. Today there are products that
20 have the lowest level of nicotine that you can get a
21 cigarette down to, so to say that we don't want the
22 levels of nicotine ratcheted down really isn't
23 accurate because products with extraordinary low
24 levels, the minimal amount of nicotine in a
25 cigarette, are available on the market today. In
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1 fact we actually produced a cigarette with no
2 nicotine. So --
3 Q. Did it sell?
4 A. No, it didn't sell. The smoke was rejected.
5 Q. Did it sell at first?
6 A. What do you mean?
7 Q. Just what I said. When you put it on the
8 market, did it sell?
9 A. No, it didn't sell. I said that. It didn't
10 sell.
11 Q. No, no. When you first put it on the market,
12 did it sell?
13 A. Well I think people bought it and tried it and
14 then stopped buying it.
15 Q. Didn't go back to it; correct?
16 A. That's right.
17 Q. And what level of nicotine was in there?
18 A. Well it was about .01. It was effectively zero.
19 You can't quite get to zero, the scientists tell me.
20 Q. But you can get down to .01; can't you?
21 A. Yes. And we have a product down there.
22 Q. Didn't capture much of the market; did it?
23 A. No, it didn't, regrettably. We spent a lot of
24 money developing it. Three hundred million dollars.
25 Q. Three hundred million dollars.

- 1 A. Three hundred million dollars.
2 Q. Over how many years?
3 A. Well I would be guessing, but I'd say
4 approximately two or three years. The plant, which
5 we had to shut down and mothball, was probably two
6 hundred million dollars.
7 Q. And do you know if there was any pharmacological
8 reaction to that nicotine cigarette?
9 A. I have no idea.
10 Q. Did you do any tests on that?
11 A. I don't know.
12 Q. Now the Frank Statement arose out of an alarm in
13 the industry back in the 1950s; didn't it, sir?
14 A. I have no idea, sir.
15 Q. You have no idea?
16 A. No idea, no. In 1954 I was battling away in
17 Australia to survive, so I don't know what happened.
18 Q. Don't know.
19 Can you direct your attention to Exhibit 18904.
20 Do you have that, sir?
21 A. Yes, I do.
22 Q. This is a Hill & Knowlton memorandum. Have you
23 seen this before?
24 A. No, I have no memory of this at all.
25 Q. Did you --

- 1 A. Not sure.
2 Q. -- get an opportunity to review any of the
3 documents that we gave notice we were going to
4 discuss with you?
5 A. No.
6 MR. BLEAKLEY: Objection, Your Honor.
7 Whether he reviewed any document designated on
8 Saturday by Mr. Ciresi is not relevant. He's either
9 seen it or he hasn't seen it.
10 THE COURT: No, it's relevant. That's the
11 purpose of the designation.
12 MR. BLEAKLEY: But it's not testimony. Mr.
13 Ciresi supplied these documents on Saturday, over 150
14 of them. Whether or not Mr. Bible has had a chance
15 to review all of those is not evidence.
16 THE COURT: It's relevant to determine
17 whether or not he's had notice that these were going
18 to be -- he was going to be questioned on these.
19 Proceed with the questioning, Mr. Ciresi.
20 BY MR. CIRESI:
21 Q. Did you have an opportunity to review any of the
22 documents that we gave notice of, sir?
23 A. I don't think I did review any of them, sir.
24 Q. Were any documents provided to you to review?
25 A. Provided to me?

- 1 Q. Yes.

2 A. I -- I don't think so.
3 Q. Now I'll represent to you that this is a
4 document from Hill & Knowlton. Do you know who Hill
5 & Knowlton is?
6 A. Yes, I do. I've never met them, but I know who
7 they are.
8 Q. They're an advertising agency; correct?
9 A. I thought they were a public relations agency.
10 Q. Public relations agency.
11 Do you know if they worked for the tobacco
12 industry back in the 1950s?
13 A. No, I have no idea.
14 Q. I'm going to represent to you, sir, that they
15 did represent the tobacco industry back in the 1950s.
16 Let me ask you this: In your 20 some years in the
17 tobacco industry, have you learned that in the 1950s
18 there were medical articles published which raised
19 the issue of smoking causing lung cancer?
20 A. No, I have no knowledge of any medical papers
21 that were issued. I -- I do recall the Reader's
22 Digest, I think, printing an article, which I've
23 never read.
24 Q. And did the Reader's Digest article pertain to
25 medical studies that had been published regarding

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1 smoking and lung cancer?
2 A. I don't know. I've never read that article.
3 Q. Well let me direct your attention to this
4 article -- or this document, 18904, which is a Hill &
5 Knowlton document. I want to ask you some questions
6 about it.
7 Can you direct your attention to the page which
8 has the Bates numbers 494. You know who the research
9 directors are in companies, correct, such as yours?
10 And I don't mean the individual names, I mean the
11 title.
12 A. Yes, I do.
13 Q. Now let me read this to you. "The attitude of
14 the men we must directly deal with in the industry is
15 at once interesting, and important for us to
16 understand. This is why notes on the four interviews
17 with 'research directors' are given at some length.
18 You'll get from them real -- little real information
19 about lung cancer, pro or con; but you'll find some
20 mighty interesting opinions. One of the men said,
21 'It's fortunate for us that cigarettes are a habit
22 they can't break.' said another: 'Boy! wouldn't it
23 be wonderful if our company was first to produce a
24 cancer free cigarette. What we could do to the
25 competition!"

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1 Now sir, have you directed any of your
2 researchers to research a cancer-free cigarette?
3 A. (Coughing) Excuse me.
4 I haven't, but I -- I don't know what other
5 activities may have gone in our -- in our research
6 and development area. But I do not believe that

7 cigarette smoking causes cancer. I think it's a
8 significant risk. I don't know what exact research
9 work has been conducted, sir.
10 Q. If you had --
11 If I came to you and I said, "Mr. Bible, I've
12 got a cancer-free cigarette," would you ask your
13 research department to take a look at it?
14 A. By that do you mean that the carcinogens you're
15 referring to earlier were not present in the
16 cigarette?
17 Q. Yeah. They wouldn't cause cancer. They had no
18 cancer-producing agents in them. Would you tell your
19 research department, "Say, talk to that Ciresi
20 fellow, see what he has?"
21 A. Well if you were the person --
22 (Laughter.)
23 Q. Well put me aside. Put me aside.
24 A. I thought that was what you just said.
25 Q. I know you wouldn't listen to me.

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1 THE COURT: Let's not get too personal
2 here.
3 (Laughter.)
4 A. If somebody -- and I --
5 I think, if I understand your question, if
6 somebody were to come to me and say that we have
7 found that we've been able to exclude the
8 carcinogens -- I think they are animal carcinogens,
9 actually -- in cigarette smoke, that they could
10 exclude that, I would be delighted, yes.
11 Q. You'd be delighted. You'd be delighted because
12 you could sell a cigarette that wouldn't cause
13 cancer.
14 A. No, I'd sell a cigarette, I think, around which
15 I could say that there were less risks associated
16 with smoking it.
17 Q. That wouldn't cause cancer, correct?
18 A. Well I don't --
19 Q. If it was cancer-free.
20 A. I --
21 Q. Isn't that right?
22 A. May I answer?
23 Q. Absolutely.
24 A. As I said, I don't know if cigarette smoking
25 does cause cancer. I know it is a very significant

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1 risk factor, and I've said that frequently and I've
2 said it publicly. If there is anything in a
3 cigarette which is considered to be by the scientists
4 risky and it could be taken out, as I said, I would
5 be delighted.
6 Q. Okay. But you have never instructed your
7 company, with the 6.7 billion dollars in cash flow,
8 to research that. You've never done that, sir.
9 A. To research what, sir?
10 Q. A cancer-free cigarette. Have you?
11 A. I've never asked anybody to research a

12 cancer-free cigarette.
13 Q. You've never directed anybody to do so; have
14 you?
15 A. No, I have not.
16 Q. If you had such a cigarette, would you market
17 it?
18 A. If I had a cigarette along the lines I just
19 described where somebody had said to me that we have
20 now developed a cigarette and it's free of animal
21 carcinogens, I would certainly look at it, and if it
22 were a cigarette that people would like to smoke, I'd
23 be delighted to market it.
24 Q. And because you haven't directed anybody to
25 research that issue, with all the resources that your
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1 powerful company has, you don't know whether it can
2 be done; do you?
3 A. Well I think I should back up a little and say
4 that when I say I have not directed anybody to do it,
5 that doesn't mean that others have not been working
6 on trying to develop a cigarette where they could
7 exclude animal carcinogens. I do not know the
8 complete nature of the research and development work
9 that has been done by Philip Morris, but I do know
10 that we do considerable research, and I think one of
11 the things we'd like to do, very much so, is to
12 eliminate as many risks and all risks associated with
13 cigarette smoking.
14 Q. That's not what I asked you.
15 A. Well could you ask me your question again,
16 please.

17 MR. CIRESI: Certainly. Can I have the
18 question back, please.

19 (Record read by the court reporter.)

20 A. Oh. Well I have not done that, but Philip
21 Morris U.S.A. may have.

22 Q. Sir, that wasn't my question either.

23 A. Uh-huh.

24 Q. Because you haven't directed anybody to do it,
25 you don't know whether it can be done; do you, of

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1 your own knowledge?
2 A. I don't know, no. I'm not a scientist either,
3 sir.
4 Q. And you've never asked that question; have you?
5 A. Which question?
6 Q. Whether it can be done. Because you haven't
7 asked anybody to do it.
8 A. I haven't asked it, but perhaps Philip Morris
9 U.S.A., which is the cigarette operating company,
10 has, and they are responsible for the research and
11 development.
12 Q. That's not what I asked. I only asked whether
13 you have. You haven't; have you?
14 A. I have not.
15 Q. Thank you.
16 Now sir, in the exhibit in front of you, 18904,

17 can you go on to the next page, page three. Do you
18 see there where it's stated, halfway through the
19 page, "There is only one problem -- confidence, and
20 how to establish it; public assurance, and how to
21 create it -- in a perhaps long interim when
22 scientific doubts must remain." Do you see that?
23 A. Yes, I do.
24 Q. Now --
25 A. (Coughing) Excuse me.

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1 Q. -- do you know whether back in 1954 the
2 cigarette industry wanted to undertake a public
3 relations campaign in order to establish public
4 assurance and confidence? Do you know?
5 A. No, I don't know.
6 Q. In your mind scientific doubts still remain;
7 correct?
8 A. In my mind, yes.
9 Q. Can you go on to the next page. "The very first
10 problem is to establish some public confidence in the
11 industry's leaders themselves, so the public will
12 believe their assertions of their own interest in the
13 public health." Do you see that?
14 A. Yes, I do.
15 Q. And what that means is that --
16 The issue being addressed was to have the public
17 believe the tobacco industry's leaders, that those
18 leaders had an interest in the public health;
19 correct?
20 A. Bit hard for me to interpret, quite frankly.
21 I -- I can understand the first part of the sentence.
22 Q. Let me read it for you again.
23 Well you go ahead, read it.
24 A. Could you ask your question again, please?
25 Q. Sure.

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1 What is being reported here is that something
2 had to be done to make the public believe the leaders
3 of the industry regarding their assertions of their
4 interest in the public's health; correct?
5 A. Yes, I think that's a fair characterization,
6 yes.
7 Q. All right. And today you've testified that you
8 have a concern about the public health; correct?
9 A. Yes.
10 Q. Those are your words; correct?
11 A. Yes. They are my words, yes, that's right.
12 Q. Now if we go down to problem two of this --
13 A. Problem two.
14 Q. In this document.
15 A. Problem two, yes.
16 Q. "To reassure the public, and still instinctive
17 fears, in this interim when definitive facts for
18 giving complete assurance are still lacking; when
19 scientific doubts must remain; and when new
20 'unfavorable' information can emerge from some
21 laboratory at any time, to act as a bomb shell on the

22 whole tobacco industry -- if it has meanwhile tried
23 to pooh-pooh the unfavorable finding to date." Do
24 you see that?
25 A. Yes, I do.

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1 Q. Now again, you believe today that there's still
2 scientific doubt; correct?

3 A. Yes, I do.

4 Q. And you know today that unfavorable information
5 emerges constantly regarding the diseases caused by
6 smoking; don't you?

7 A. Unfavorable --

8 Q. Unfavorable information. To the -- to the
9 industry.

10 A. Yes, that's -- that's right. Uh-huh.

11 Q. And despite that unfavorable information that
12 comes out from laboratories and medical institutions
13 across the world, you still deny causation. You.
14 Correct?

15 A. Me personally?

16 Q. Yes.

17 A. Yes. I have said that I don't know if cigarette
18 smoking causes lung cancer or other diseases that are
19 associated with it. I just don't know. But I have
20 said also that I'm going to disengage from that
21 debate. Publicly I've said that.

22 Q. If you go on to the next page, sir, "The fact
23 is, of course, that no one who has been a heavy
24 smoker is going to benefit himself now by falling
25 into a panic, and eliminating the pleasure and

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1 comfort of cigarettes. He might just as well go on
2 enjoying his smoke in this interim while research
3 pursues the facts, with full assurance that if any
4 cancer-causing agent is ever really found in tobacco,
5 the manufacturers will quickly find a way to
6 eliminate it." Is that right?

7 A. That's what it says, yes.

8 Q. Now you do know from your testimony that
9 cancer-causing agents were found in tobacco; correct?

10 A. I believe animal carcinogens -- animal
11 carcinogens were found in tobacco smoke, yes.

12 Q. You keep saying "animal."

13 A. Well I believe that's the only way it can be
14 designed or -- or can be established, is through
15 animal testing.

16 Q. What about all the people who have been smoking
17 and develop lung cancer? How about that laboratory
18 that's right out there in the public, sir?

19 A. What about it, sir?

20 Q. Isn't that a laboratory that shows that those
21 carcinogens can cause cancer in human beings?

22 A. Well that is why I said that I don't know,
23 because to the best of my understanding there's been
24 no mechanism established that demonstrates the
25 biological link between cigarette smoking and lung

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1 cancer.
2 Q. Well how would you conduct such a study? Take
3 somebody's lung and take the tar condensate and put
4 it on their lung and see if a cancer develops? Is
5 that what you would do?
6 A. No. I'm told that in fact the medical way of
7 creating certainty about something is through animal
8 studies, and I understand that animal studies have
9 not been conclusive.
10 Q. Have you read the documents in this case -- or
11 you haven't. You haven't read the documents in this
12 case; have you?
13 A. In this case?
14 Q. Yes.
15 A. No, I have not.
16 Q. So you don't know if Philip Morris found
17 reliable animal studies for inhalation 20, 30 years
18 ago, 10 years ago. You don't know that; do you?
19 A. I would have thought, if they had, I would have
20 heard about it.
21 Q. You should have been told about it; correct?
22 A. I would have heard about it, I think, yes.
23 Q. You should have been told about it; correct?
24 A. Well I've been at my job four years. I would
25 have thought over the last 30 my predecessors would

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1 have been told about it.
2 Q. What about you? Should you have been told about
3 it?
4 A. Well in the last four years I certainly should
5 have been told about it. Nobody has. And I don't
6 know of any research that's been conducted that
7 establishes what I just said.
8 Q. Okay. But if there was any such research, you
9 should have been told about it; correct?
10 A. Well in my period as being CEO and chairman of
11 three and a half years, yes.
12 Q. Now let's go on in this document, sir. Problem
13 three, "How to validate this message of assurance.
14 The men talked to in the cigarette companies tend to:
15 "(a) Think occasionally in terms of trying to
16 'smear' the personal responsibility, motives,
17 judgments, or techniques of Wynder and others
18 supporting him."
19 Do you know who Wynder is?
20 A. I don't think I do, no. I've heard his name,
21 but I don't know.
22 Q. Is he the scientist who did the mouse-painting
23 studies back in the fifties?
24 A. I don't know.
25 Q. Do you think it would be appropriate to try to

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1 smear people who find that smoking causes cancer?
2 A. No. I think that's terrible.

3 Q. It's terrible.
4 A. Terrible, yes.
5 Q. If Philip Morris did it, that would have been
6 terrible; correct?
7 A. Well I would say it's terrible, yes.
8 Q. It would have been inappropriate; correct?
9 A. Inappropriate, yes.
10 Q. A violation of their duty; correct?
11 A. A violation of their duty?
12 Q. Yes.
13 A. Which duty was that, sir?
14 Q. The duty to the public.
15 A. Yes, I think that's a proper statement.
16 Q. Now can you go down to 3.(c). "The men talked
17 to in the cigarette companies tend to," and then it
18 goes down to (c), "To overlook the fact that in this
19 particular instance, the stakes for the public are
20 even larger than for the tobacco manufacturers. (For
21 the public, an issue touching the deepest of human
22 fears and instincts is involved - the issues of
23 uncontrollable disease and death. Hence cigarette
24 companies might not be readily -- readily be
25 forgiven, if their approach to this problem is

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1 stemmed only from their eagerness to protect their
2 earnings, and if they twisted the research of medical
3 scientists -- science (which seeks to save men) into
4 a device to save stockholders. There is no precedent
5 where a great industry has been forced to face such
6 grave issues."

7 Do you see that?

8 A. Yes, I do see that.

9 Q. Do you agree with that paragraph?

10 A. Well I'm not trying to be difficult, please, but
11 I -- I didn't quite identify your lead-in, so I
12 couldn't quite get with the whole gist of the
13 paragraph.

14 Q. Well let me explain that. You'll see up there,
15 "Problem 3."

16 A. Yes.

17 Q. It says "How to validate" --

18 A. Oh, I see where you are.

19 Q. -- "this message of assurance" --

20 A. I see, yes.

21 Q. Let me finish. Otherwise we have a record
22 that's jumbled. Okay? So let me finish.

23 A. All right.

24 Q. "How to validate this message of assurance. The
25 men talked to in the cigarette companies tend to,"

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1 and then it lists a bunch of things, and (c) is one
2 of them. Do you see it?

3 A. Yes. Yes. Now I understand, yes.

4 Q. All right. Now do you agree with (c) that I
5 just read?

6 A. Yes, I think.

7 Q. You would.

8 A. I will agree with that. It doesn't sound very
9 nice at all.
10 Q. Would full --
11 Pardon me?
12 A. It doesn't sound very nice at all, it would seem
13 to me.
14 Q. If the companies did that; correct?
15 A. If that's what they did, yes.
16 Q. They would be violating their duties; correct?
17 A. Well yes. But this was written by Hill &
18 Knowlton; wasn't it?
19 Q. I understand that. They would be violating
20 their duties; correct, sir?
21 A. Well that's one way of saying it, yes.
22 Q. Well you would agree with that.
23 A. Yes. I'm a little bit confused because, you
24 know, one has a duty to run a company for
25 stockholders, and I'm having a bit of difficulty

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1 relating this paragraph to duties that --
2 This is what Hill & Knowlton were saying, and
3 I'm having a bit of trouble absorbing it.
4 Q. Well let's explore that a little. We'll go
5 through it line by line.
6 A. Hmm, good.
7 Q. "To overlook the fact that in this particular
8 instance, the stakes for the public are even larger
9 than for the tobacco manufacturers." We'll start
10 right here. Do you have a problem with that
11 sentence?
12 A. It says the men talked to in the cigarette
13 companies tend to overlook this fact that in this
14 particular instance the stakes for the public are
15 even larger than for the tobacco --
16 No, I get that.
17 Q. You agree with that.
18 A. I get that.
19 Q. You get that.
20 If someone is going to be diseased and die from
21 a product, that's much more important than whether
22 some shareholder makes a dividend; correct?
23 A. Yes, sir.
24 Q. You would agree with that; wouldn't you?
25 A. I would agree with that, yes.

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1 Q. "For the public, an issue touching the deepest
2 of human fears and instincts is involved - the issues
3 of uncontrollable disease and death." Do you agree
4 with that?
5 A. Yes, I do agree with that.
6 Q. So that if cigarettes were causing disease and
7 death, that would touch the deepest of human fears
8 and instincts; wouldn't it?
9 A. Yes, I think that's a fair characterization.
10 Q. And that would be particularly true the more
11 death and disease that is caused; correct, sir?
12 A. Well I think it would be any case. Whether it's

13 less or more, it would touch the deepest of human
14 fears and instincts. I would agree with that.
15 Q. If it's just one death, is that what you're
16 saying?
17 A. I'm saying regardless of how many, I think it's
18 very important.
19 Q. So it's just one; correct?
20 A. Just one it's important.
21 Q. And if it's 400,000 a year, it's even much more;
22 isn't it?
23 A. Yes, I think it would be much more. I take one
24 death very seriously.
25 Q. "Hence cigarette companies might not be -- might
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1 not readily be forgiven if their approach to this
2 problem is stemmed only from eagerness to protect
3 their earnings, and if they twisted the research and
4 medical science (which seeks to save men) into a
5 device to save stockholders."
6 A. Hmm.
7 Q. You'd agree with that.
8 A. Yes, I would say I would agree with that, yes.
9 Q. Okay. And last sentence, "There is no precedent
10 where a great industry has been forced to face such
11 grave issues." Would you agree with that?
12 A. Well I don't know. I just don't know. This --
13 this was a grave matter, but I'm not an encyclopedia
14 on every incident that every industry has faced
15 throughout the lifetime of companies' activities, not
16 just our company.
17 Q. Do you know of any --
18 I'm sorry, I cut you off there. What was the
19 end part?
20 A. Not just our company.
21 Q. Do you know what other industry where it has
22 been reported that over 400,000 people per year in
23 the United States died from the product?
24 A. No, I don't.
25 Q. Any other industry?

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1 A. No, I don't know. I don't know of any other,
2 but I don't pretend to be a historian. I don't know
3 what other events have occurred, but I don't know.
4 I'm not going to argue or quibble over it.
5 Q. I'm not asking you if you're a historian, Mr.
6 Bible, I just want to know if you know any company,
7 any such industry.
8 A. No, I don't.
9 Q. Have you ever heard of any such industry?
10 A. No. None comes to my mind.
11 Q. Okay. Next paragraph. "In the past, industry
12 has given little twists to the facts of science, to
13 convert them into sales propoganda, without much
14 risk. The cigarette industry has indeed been doing
15 this for years. We can therefore readily understand
16 its assumptions that the same techniques will work
17 now, in devising propoganda. But it is highly

18 important to note that the deep issues of
19 life-and-death that are now involved make highly
20 doubtful the question as to whether the familiar
21 techniques can be relied upon -- relied on. The
22 stakes are too large; the penalties for losing could
23 be too great." Do you see that?
24 A. I see that, yes.
25 Q. Now sir, --

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1 A. (Coughing) Excuse me.
2 Q. -- do you know whether the industry itself
3 created problems, health problems, by twisting the
4 facts?
5 A. No, I have no idea of that, and I don't believe
6 we would do that. Certainly not under my watch.
7 Q. Well you see that this is being reported by Hill
8 & Knowlton after meeting with the research directors
9 of the companies; correct?
10 A. Yes. That was a long time ago, and I don't --
11 Was it a meeting of the research directors?
12 Q. Yes.
13 A. Does it say that here?
14 Q. If you go back to page two, Bates number is
15 494, --
16 A. Uh-huh.
17 Q. -- talking about the meetings -- the interviews
18 with the research directors at the top. Do you see
19 that?
20 A. Page two. It says, "The attitude of the men we
21 must directly deal with in the industry" --
22 Q. No, I'm sorry, sir. The Bates number 494 at the
23 bottom.
24 A. Oh, at the bottom. Uh-huh. Uh-huh.
25 Q. And right at the top --

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1 A. Ah, yes, I do see that.
2 Q. All right.
3 A. I'm sorry, I apologize.
4 Q. Now let's go back to the page we were on, 498.
5 I want you to assume that the industry was twisting
6 the health facts.
7 A. What year was this, please, sir?
8 Q. 1954, sir. Okay? I want you to assume that.
9 A. Assume --
10 Q. That they were twisting the facts.
11 A. Well I have trouble assuming that.
12 Q. I'm asking you to assume that for the purposes
13 of my question. If they were, that would be a
14 violation of their duty to the public; wouldn't it?
15 A. Yes, it would be, if they were.
16 Q. And --
17 A. But I -- I have trouble assuming it. I would
18 like to say that.
19 Q. And do you see where it says "the stakes are too
20 large; the penalties for losing could be too great?"
21 Do you see that?
22 A. I've just lost the again.

23 Yes, I do see it.
24 Q. Now you understand in this case the plaintiffs
25 are asking for punitive damages; don't you?
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1 A. Yes, I do understand that.
2 Q. Okay. Now if a company did twist the facts and
3 lied to the American public, as you said, they should
4 be held accountable; shouldn't they?
5 A. Yes. I think that that is fair.
6 Q. And when holding them accountable, you should
7 look at the seriousness of the hazard that was
8 created as a result of their conduct; shouldn't you?
9 A. Well that would seem to be reasonable, yes.
10 Q. You should also look at the profitability of
11 that misconduct; shouldn't you?
12 A. That I'm not so sure about, sir. My
13 understanding of punitive damages is it's to --
14 it's -- it's a deterrent for future conduct; is it
15 not?
16 Q. And --
17 A. I can give you a solemn undertaking, so long as
18 I'm watching this company, these things won't happen.
19 Q. Well --
20 A. I can tell you that.
21 Q. -- forgive me, sir, I haven't asked you for your
22 solemn undertaking.
23 A. Well I'd like to offer it. Thank you.
24 Q. Have you looked --
25 You haven't looked to see whether your
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1 predecessors gave solemn undertakings; have you?
2 A. I explained why I have not and I think it's very
3 sound reasoning.
4 Q. You haven't, have you?
5 A. No, I have not, and I think I feel quite
6 justified in the reasoning.
7 Q. Let me ask you this again: If they engaged in
8 this type of conduct, that Philip Morris did, the
9 profitability of that misconduct should be taken into
10 account; shouldn't it?
11 MR. BLEAKLEY: Objection, Your Honor, asked
12 and answered.
13 THE COURT: I don't believe it's been
14 answered. You may answer the question.
15 THE WITNESS: Sorry. Could you repeat the
16 question?
17 MR. CIRESI: May I have it back, please,
18 Mr. Stirewalt.
19 (Record read by the court reporter.)
20 A. Well firstly I would say that if Philip Morris
21 did do it, and I don't know if they did, I -- I would
22 be horrified if they did do that, then it would be a
23 question -- I think your question is should you not
24 take into consideration the profitability they made
25 from such misrepresentation or --
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- 1 Q. Such conduct, yes.
2 A. -- such conduct?
3 Yes. I don't know how you'd ally the conduct to
4 profitability, but I can -- I understand your point.
5 Q. Sure. You know that Philip Morris from the
6 tobacco profits has purchased food companies; hasn't
7 it?
8 A. Philip Morris --
9 No, I don't think that's right actually. I
10 think the monies we used to buy our food companies
11 was borrowed. That's why we have so much debt on our
12 balance sheet today.
13 Q. Really. What did you put to support that debt?
14 Did they ask what -- what your company was, what its
15 net worth was?
16 A. I -- I didn't arrange the loan funding, so --
17 The banks were -- I think were very happy to
18 lend the money.
19 Q. You're not unsophisticated in these matters; are
20 you, Mr. Bible?
21 A. I don't believe I am at all.
22 Q. No. So when you went to borrow money from the
23 bank, the bank looked at what business you were in;
24 correct? And by "you," I mean Philip Morris.
25 A. Sir, I think then I was in Europe, frankly. But

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- 1 I -- I -- I was not involved in the acquisition of
2 these companies. I think what I'm telling you is
3 when we bought those companies, we had huge debt
4 offerings, and we borrowed monies and we bought the
5 companies.
6 Q. Sir, all I'm asking you is when you went and
7 borrowed the money or issued debt, you had a tobacco
8 business; correct?
9 A. Absolutely.
10 Q. That was the basis of the business; correct?
11 A. No, I'd have thought --
12 That's the basis of the business. But when you
13 are borrowing money to buy something, I think a
14 banker looks at what you're buying.
15 Q. Sir, the business of Philip Morris was tobacco
16 at the time you went to buy the food businesses.
17 "Yes" or "no."
18 A. No, it was tobacco and beer.
19 Q. Tobacco and beer. All right.
20 A. And wine.
21 Q. Well let's back up.
22 A. And wine.
23 Q. And wine.
24 A. Uh-huh.
25 Q. When you went to buy the beer and wine business,

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- 1 was it tobacco?
2 A. Yes, it was.
3 Q. It started with tobacco; correct, sir?

4 A. Yes, it did. But I think at that time we also
5 had some other interests. We had a soft drink
6 company called 7-Up, and we had, I think, Burma
7 Shaving Cream, we had Personna Razor Blades. We had
8 a variety of businesses.
9 Q. And they came about after the tobacco business;
10 correct?
11 A. I think the tobacco business was the original
12 business, yes.
13 Q. Yes.
14 A. That's --
15 Now I can't be sure, but I think that's right.
16 Q. And -- and sir, the most profitable of your
17 businesses is the tobacco business.
18 A. Today, yes.
19 Q. Now if Philip Morris engaged in this type of
20 conduct over the last 40 years, you would agree that
21 it would be fair, in holding it accountable, to look
22 at the duration, how long that misconduct was, and
23 whether or not it was concealed. You would agree
24 with that; wouldn't you?
25 A. Well I think that would be one factor, yes.

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1 Q. And another factor that you believe should be
2 looked at to hold Philip Morris accountable, if it
3 did those things, is the degree of Philip Morris's
4 awareness of the hazard of the product and the extent
5 of harm it could cause; correct?
6 A. Well in that respect I would also correlate that
7 with the general public's awareness, too, I think, at
8 the time.
9 Q. Just talking about Philip Morris's conduct here.
10 A. Yeah. But I answered the question I thought,
11 sir.
12 Q. And I'm asking you about Philip Morris.
13 A. And I answered your question. I thought that I
14 said I would also correlate that with the general
15 public awareness of the same issue.
16 Q. I'm asking what Philip Morris knew, what Philip
17 Morris knew and when it knew it, and I'll ask you the
18 question again having that in mind, sir. Okay?
19 MR. CIRESI: May I have the question,
20 please.
21 (Record read by the court reporter.)
22 THE WITNESS: Could you just read the
23 last --
24 THE REPORTER: I'll re-read the whole
25 question.

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1 (Record read by the court reporter.)
2 A. I think I can say yes to that. I'd like to
3 qualify it, but you won't let me.
4 Q. Another factor that you would look at would be
5 the attitude and conduct of Philip Morris upon the
6 discovery of the misconduct. Fair enough?
7 A. Yes, I think one should look at that.
8 Q. Another factor you would look at is the number

9 of employees that were involved in the misconduct;
10 correct?
11 A. I think that would be important, yes.
12 Q. Another thing that would be important is the
13 level that the employee is at; correct?
14 A. I think that's important, if that --
15 I'm assuming something here, mind you.
16 Q. I understand you are.
17 A. Thank you.
18 Yes, I think that's important.
19 Q. And so if it went all the way to the top of the
20 corporation, that would be important to take into
21 account; wouldn't it?
22 A. Yes, I would agree with that.
23 Q. Another factor that should be taken into account
24 is the financial condition of Philip Morris; correct?
25 A. Yes.

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1 Q. Another factor that should be taken into account
2 is the total effect of other punishment likely to be
3 imposed upon Philip Morris, including any punitive
4 damages in other cases. Fair enough?
5 A. I really don't know.
6 Q. You don't know whether that should be taken into
7 account or not?
8 A. No, I really don't know. I've never been
9 involved in this sort of stuff. I'm not a lawyer. I
10 just don't know how people go about these affairs.
11 Q. If Philip Morris wasn't going to be exposed to
12 any other punitive-damage award important its 40-year
13 conduct that we're assuming was inappropriate, don't
14 you think that should be taken into account?
15 MR. BLEAKLEY: Your Honor, this has been
16 asked and answered. It's also very argumentative.
17 THE COURT: Well it hasn't been answered,
18 but I think it's getting argumentative, counsel.
19 Q. Well, sir, in your opinion would it be fair to
20 take into account whether Philip Morris would be
21 punished in any other jurisdiction?
22 A. Should be punished?
23 Q. Whether it would be punished in any other
24 jurisdiction.

25 MR. BLEAKLEY: Your Honor, the witness said
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1 he didn't know. It has been asked and answered.
2 THE COURT: Yeah, I think he's answered it.
3 Q. Now do you know if the companies back in 1954,
4 including Philip Morris, told the public they could
5 count on the cigarette companies to take anything out
6 of the cigarette that is a health hazard?
7 A. Well I don't know that, but I thought there was
8 some reference to that in the Frank Statement.
9 Didn't you --
10 Q. Well let's -- let's stick to the document we're
11 on right now.
12 A. I will. Which one is that?
13 Q. Exhibit 18904.

14 A. Yes.
15 Q. Do you remember right at the top of page 497,
16 and using the Bates numbers again, --
17 A. Uh-huh, yes.
18 Q. -- it said "...with full assurance if any
19 cancer-causing agent is ever really found in tobacco,
20 the manufacturers will quickly find a way to
21 eliminate it." Do you see that?
22 A. Well yes. You kicked off halfway through a
23 sentence. Should I read the whole thing or --
24 Q. Well we can put it all up there if you think --
25 A. No, I can read here, but I don't like reading
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1 half sentences.
2 Q. Well we'll read the whole sentence for you.
3 A. Thank you.
4 Q. "He might just as well go on enjoying his smoke
5 in this interim while research pursues the facts,
6 with full assurance that if any cancer-causing agent
7 is ever really found in tobacco, the manufacturers
8 will quickly find a way to eliminate it." Do you see
9 that?
10 A. Yes, I do see that.
11 Q. And if you go over two pages to Bates number 499
12 at the bottom, --
13 A. Uh-huh.
14 Q. -- last paragraph, "You can count on the
15 cigarette companies (who have obligated themselves to
16 pour millions of dollars into cancer research) to
17 take anything out of your cigarette that is a health
18 hazard." Do you see that?
19 A. Yes, I do.
20 Q. Now I want to talk just about you personally for
21 a minute. Okay? You said you don't believe smoking
22 causes cancer; correct?
23 A. Correct.
24 Q. You said that it was significant and then you
25 said it was a very significant risk factor.

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1 A. Yes, I did say that.
2 Q. You did say that; correct?
3 A. Uh-huh.
4 Q. What's the difference between a very significant
5 risk factor and causation in your mind?
6 A. Well I think a risk factor is a statistical
7 association. I think it leads people, say in the
8 medical profession in this case or the scientific
9 arena in this case, towards directions which they
10 should research in trying to identify the cause of
11 what they're searching for. So that is what I -- I
12 believe statistical association does. And while I'm
13 by no means a statistician, in my early studies as a
14 young -- youngster I was taught most absolutely don't
15 ever believe correlation to be causation. It is a
16 terrible error.
17 Q. Terrible error.
18 A. So I've always felt that way.

19 Q. Now the difference, then, in your mind between
20 causation and a very significant risk factor --
21 A. Uh-huh.
22 Q. -- is that a very significant risk factor is a
23 statistical correlation. Is that what you're saying?
24 A. That's what I'm saying, yes.
25 Q. Now do you know anything about the Henle Koch
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1 postulates?
2 A. I've never heard that word, sir.
3 Q. And you haven't read Dr. Glenn's testimony;
4 correct?
5 A. No, I have not.
6 Q. Do you know that medical scientists, doctors,
7 look at medical studies and draw cause-and-effect
8 relationships based on a variety of factors?
9 A. No, I don't know that. But in this particular
10 case it is my understanding that the absolute
11 certainty would -- can only be ascertained through
12 animal research, and that has not been established
13 between cigarette smoking and lung cancer, to the
14 best of my knowledge.
15 Q. So the only thing you would accept, as I
16 understand you, is animal research.
17 A. Well that's what my scientists have told me as
18 being the most appropriate and final determinant of
19 that.
20 Q. And your scientist is Dr. Ellis?
21 A. Dr. Ellis, yes. I've talked with others.
22 Q. Is Dr. Ellis a medical doctor?
23 A. No. She's a pharmacologist.
24 Q. Pharmacologist.
25 Okay. Who else have you talked to?

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1 A. I talked to Dr. Barker.
2 Q. Dr. Barker.
3 A. Hmm.
4 Q. With your company?
5 A. No. Dr. Barker, I think he's just retired, he
6 was the president of the Thoracic Surgeon Society. I
7 think he was also the head thoracic surgeon at Cook
8 County Hospital in Illinois, and Rush Hospital, too,
9 I think, also.
10 Q. Have you read his writings?
11 A. No, I've not read his writings. I've had a
12 conversation, a long conversation with him.
13 Q. Anybody else you talked to?
14 A. I've talked to one or two other doctors, yes.
15 Q. Any names?
16 A. I've talked to Dr. Lerner of Scripps Institute,
17 and Dr. Edelman, who is a Nobel laureate.
18 Q. Anybody else?
19 A. No. Well none that comes to my mind quickly, if
20 I could qualify that.
21 Q. And have they all told you that animal testing
22 would give you the certainty, and that's the only way
23 to get certainty?

24 A. No, they've not said that, no. No. But I -- I
25 would like to qualify that a little bit. That's one
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1 of the elements that Dr. Barker felt very strongly
2 about and --

3 Q. Sir, excuse me.

4 A. Hmm.

5 Q. I just asked whether --

6 MR. BLEAKLEY: Your Honor, Mr. Ciresi is
7 injecting, interrupting the witness's answer.

8 THE COURT: You are interrupting. Let him
9 finish his answer, please.

10 A. Yes. During the course of my conversation with
11 Dr. Barker, he gave a number of reasons as to why he
12 was dissatisfied that the relationship between
13 cigarette smoking and lung cancer being claimed
14 hadn't been established, and he felt amongst many
15 items -- and when I say "many," he had about eight or
16 10 reasons that he described to me, they were all
17 very sound I thought, one was that he felt very
18 strongly that it was a great pity that medical
19 science had decided to abandon what in his mind was
20 the only true way of establishing things of this
21 nature, and that is by animal research.

22 Q. Animal research.

23 A. And that they really were falling into the trap
24 of allowing statistics to determine what really could
25 only be established by animal research.

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5816

1 Q. Now animal research is biological research; is
2 that right?

3 A. Well that's my understanding of it, sir, yes.

4 Q. And do you know if there was a gentlemen's
5 agreement between your company and the other
6 defendants not to do biological research in-house?

7 A. No, I have no understanding of that nature.

8 Q. That would be wrong if they did that; wouldn't
9 it?

10 A. Yes, it doesn't sound right. But I would need
11 to know the context in which such a decision was
12 taken. Because I think Philip Morris, if that were
13 something you are suggesting was done, contributed
14 significantly, as did other tobacco companies, to The
15 Council for Tobacco Research to conduct research.

16 Q. Mr. Bible, we've heard from Dr. Glenn about The
17 Council for Tobacco Research. I'm asking you now
18 about the companies themselves. Do you know if they
19 had a gentlemen's agreement not to do biological
20 research?

21 A. No, I don't know that.

22 Q. I want you to assume that Dr. Wakeham testified
23 here as follows --

24 Do you know who Dr. Wakeham is?

25 A. Yes. He's a little older -- quite a bit older

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1 than me, I guess, although I'm getting older now, but
2 I've met him a couple times.
3 Q. Former head of the research and development
4 department?
5 A. Yes.
6 Q. At Philip Morris; right?
7 A. That was his job when I met him.
8 Q. "Question: What's the type of research you
9 understood that there was an understanding the
10 cigarette companies would not do in-house?
11 "Answer: Study the relationship which might
12 exist between smoking and diseases such as were
13 tabulated in the Surgeon General's report."
14 Now I want you to assume that Dr. Wakeham
15 testified to that here in this courtroom by
16 deposition. All right?
17 A. Well yes. I don't like to assume anything, but
18 I shall.
19 Q. Okay. If he testified to that and Philip Morris
20 did it, that would be wrong; correct, sir?
21 A. Well I'd like to know the circumstances. And
22 you're getting me a little bit on the wrong foot here
23 because I -- I didn't grasp absolutely everything you
24 said.
25 Q. Well --

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1 A. I don't know if those were all of the
2 circumstances surrounding that incident.
3 Q. Let me read it again.
4 A. Yes. But could you explain the circumstances
5 around the --
6 Q. Sir --
7 A. -- conversation that he had?
8 Q. I'm going to give you the question and answer.
9 I want you to assume this is what he said.
10 "Question: What's the type of research you
11 understand there was an understanding that the
12 cigarette companies would not do in-house?
13 "Answer: Study the relationship which might
14 exist between smoking and diseases such as were
15 tabulated in the Surgeon General's report."
16 Now I want you to assume that he testified to
17 that here by deposition. All right?
18 A. Okay.
19 Q. If the companies had such an understanding, they
20 would not have been discharging their duty to the
21 public; correct?
22 A. Well I would say it would depend if they were
23 conducting research outside the companies. Did you
24 say that was in-house research --
25 Q. That's correct.

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5819

1 A. -- that they said they would not do?
2 Well it would seem to me if they were conducting
3 research outside the companies, they were fulfilling
4 their obligation.

5 Q. So if they were conducting research in outside
6 laboratories. Is that right?
7 A. No. What I meant by that is if they'd hired
8 some responsible organization to conduct research.
9 Q. Have you heard of INBIFO?
10 A. Yes, I've heard of INBIFO.
11 Q. And INBIFO is owned by Philip Morris?
12 A. Yes, it is owned by Philip Morris.
13 Q. Do you know if research was done there?
14 A. Yes, I believe research is done there.
15 Q. Do you know if research was done there in the
16 past?
17 A. Well yes, I think they bought it in -- in 1970
18 sometime.
19 Q. Can you direct your attention, sir, to Exhibit
20 18905, which is the next exhibit in your book.
21 A. Yes.
22 Q. And do you see the date there, December 15th,
23 1953?
24 A. Yeah, I do.
25 Q. And you see that this relates to a meeting that
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1 was given by the presidents of the leading tobacco
2 companies at the Hotel Plaza?
3 First paragraph.
4 A. Yes.
5 Q. And do you see that Philip Morris was in
6 attendance?
7 A. Yes.
8 Q. And do you see, sir, that the companies were
9 looking to set up a public relations organization?
10 At the bottom of the paragraph -- page.
11 A. Yes, I see they're talking about organizing a
12 committee, an informal committee. Is that what
13 you're referring to?
14 Q. Yes.
15 A. Yes.
16 Q. And if you go on to the next page where it says
17 "The Industry's Position," do you see that?
18 A. Yes.
19 Q. The fourth paragraph, --
20 A. Yes.
21 Q. -- "They feel that they should sponsor a public
22 relations campaign which is positive in nature and is
23 entirely 'pro-cigarettes.' They are confident they
24 can supply us with comprehensive and authoritative
25 scientific material which completely refutes the
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1 health charges."
2 Do you see that?
3 A. Yes, I see that.
4 Q. Do you know if this meeting led to the Frank
5 Statement?
6 A. Well I have actually no idea. Actually, I'm --
7 I'm having a bit of trouble finding out who the
8 meeting was between. I can see that there are a
9 number of cigarette companies there.

10 Q. Well --
11 A. Was it a trade association, or --
12 Q. No. The presidents of the company.
13 Sir, could you go to the last back -- last
14 page --
15 A. Of the -- of the document?
16 Q. Yes.
17 A. Yes. I see.
18 Q. Do you see the people --
19 You see Bert Goss's name?
20 A. Yes.
21 Q. You see Joseph Cullman, Jr.?
22 A. Yes, I do.
23 Q. Chairman and president of Benson & Hedges?
24 A. Yes, I do.
25 Q. Benson & Hedges was purchased by Philip Morris;
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1 correct?
2 A. I think Benson & Hedges purchased Philip Morris
3 and kept the name Philip Morris.
4 Q. Okay. And Joseph Cullman, Jr. became the head
5 of Philip Morris?
6 A. Yes, that's right.
7 Q. And his son is Joseph Cullman III?
8 A. That I don't know. I would have assumed that
9 was Joseph Cullman, but perhaps that was his father.
10 I'm not sure of that.
11 Q. Now if you go back, sir, to page three of this
12 document, --
13 A. Uh-huh.
14 Q. -- and you see at the top, about three
15 paragraphs down, it's indented, "Do the companies
16 consider that their own advertising and competitive
17 practices have been a principal factor in creating a
18 health problem?" Do you see that?
19 A. Yes, I do.
20 Q. And then it goes on to state, "The companies
21 voluntarily admitted this to be the case even before
22 the question was asked. They have informally talked
23 over the problem and will try to do something about
24 it." Do you see that?
25 A. Yes, I do.

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1 Q. Now can you tell me where in the Frank Statement
2 these companies said that they've created a health
3 problem?
4 A. Could I just ask for a bit of information to
5 help me form my opinion?
6 Q. Sure.
7 A. Do you mind me -- because this is something I've
8 not seen, back in 1953. This, I presume, are the
9 minutes of a meeting. Is that what they are?
10 Q. September 15th, 1953 --
11 A. '53.
12 Q. -- between Hill & Knowlton and the presidents of
13 the --
14 A. Oh.

15 Q. -- tobacco companies.
16 A. I hadn't taken the Hill & Knowlton element of
17 it. And these are the minutes --
18 Q. That's right.
19 A. -- gathering what was discussed and the
20 decision.
21 And that was on page three.
22 Q. Page three. And all I want to know is where in
23 the Frank Statement is it stated that the companies
24 have created a health problem?
25 MR. BLEAKLEY: Your Honor, the document
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1 speaks for itself. This is not proper use of this
2 witness. He hasn't seen the document, he knows
3 nothing about them.
4 THE COURT: Okay. Well I think he's seen
5 this and I think he's seen the Frank Statement. I
6 think the question relates to the Frank Statement.
7 But --
8 MR. BLEAKLEY: My objection, Your Honor, is
9 to using this witness to make what is essentially a
10 rhetorical or argumentative point when the witness
11 has seen neither document and knows nothing about it.
12 Each of the two documents speak for themselves. He's
13 essentially making an argument to the jury through
14 the use of the two documents.
15 THE COURT: Well you may answer the
16 question.
17 Q. Do you know if in --
18 A. I've forgot the question.
19 Q. I'll give it to you again.
20 A. I'm sorry to belabor this, but I really am
21 confused.
22 Q. Do you know if in the Frank Statement Philip
23 Morris and the rest of the signers said they had
24 created a health problem?
25 A. No, I don't know, I've not read the -- the --
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1 the Frank Statement. But I think had they said that,
2 I would have known that. So I don't know, but
3 probably not.
4 Q. And in fact to this date Philip Morris has not
5 said it created a health problem; has it?
6 A. Not to my knowledge, no. No.
7 Q. You've never said that; have you?
8 A. No, I've never said that. I have certainly said
9 that cigarette smoking is a serious risk factor.
10 Q. Sir, but you've never said that Philip Morris
11 created a health problem.
12 A. No, I -- I've never said that.
13 Q. And do you believe if the company believed they
14 created a health problem, they should tell the public
15 about it?
16 A. Oh, I would have thought so, yes. Yes. In fact
17 we do that frequently in many of our companies where
18 we have products that there may be a problem, we have
19 a product recall, we're very quick to tell the

20 American public or the public in the world, wherever
21 the product might be.
22 Q. So you believe that companies have a duty to
23 tell the public if they've created a health problem;
24 correct?
25 A. Yes. And in fact I would say the law provides
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1 for that.
2 Q. Now we've seen here where -- strike that.
3 And if the law provides for that, as you said,
4 and the law is violated, then the company should be
5 held accountable; correct?
6 A. If the law is violated, yes.
7 Q. Now sir, can you go --
8 MR. BLEAKLEY: Your Honor, we've been going
9 about an hour and 40 minutes. I think this may be an
10 appropriate time for a break.
11 THE COURT: All right. Why don't we take a
12 short recess.
13 THE CLERK: Court stands in recess.
14 (Recess taken.)
15 THE CLERK: All rise. Court is again in
16 session.
17 (Jury enters the courtroom.)
18 THE CLERK: You may be seated.
19 THE COURT: Counsel.
20 MR. CIRESI: Thank you, Your Honor.
21 BY MR. CIRESI:
22 Q. Mr. Bible, you said the absolute certainty about
23 causation can only be ascertained through animal
24 research; correct?
25 A. That was what I was told.

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1 Q. Can you direct your attention to Exhibit 11470
2 in volume one, sir.
3 A. Okay.
4 Q. Do you know who Jett Lincoln is?
5 A. Yes, I know Jett Lincoln.
6 Q. Do you know him personally?
7 A. Yes, I've met him. Not very closely, but I know
8 him.
9 Q. Former chief financial officer of the company?
10 A. That wasn't my memory of Jett's job, no.
11 Q. What do you --
12 What's your memory?
13 A. My memory of Jett's job was in planning and
14 strategy, I think.
15 Q. Do you know if he ever was chief financial
16 officer?
17 A. I have no idea if he was.
18 Q. And Dr. Seligman was the head of research and
19 development?
20 A. I believe so. I can't be certain, but I believe
21 so.
22 MR. CIRESI: Your Honor, we'd offer Exhibit
23 11470.
24 MR. BLEAKLEY: No objection.

25 THE COURT: Court will receive 11470.
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1 BY MR. CIRESI:
2 Q. The title of this document, dated December 21,
3 1976, "Longevity Study with Animals." Do you see
4 that?
5 A. Yes.
6 Q. And Dr. Seligman tells Mr. Lincoln the
7 following: "I have become more and more convinced
8 that we should not conduct any longevity studies with
9 animals. It appears to me that even positive results
10 would be meaningless in light of the human experience
11 where statistical evidence indicates that longevity
12 is adversely affected by smoking." Do you see that,
13 sir?
14 A. Yes, I do.
15 Q. Those are the animal studies you were referring
16 to; weren't they?
17 A. Yes, the subject matter of the letter is -- or
18 the memo is "Longevity Study with Animals."
19 Q. And Philip Morris had knowledge around the same
20 time with regard to animal studies that had been
21 done; did it not?
22 A. I don't know.
23 Q. Can you direct your attention to Exhibit 10312
24 in the same book.
25 A. Yes. Boy, it's hard to read.

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1 Q. That's a Philip Morris memorandum dated February
2 5th, 1970, to Mr. Landay from Mr. Saleeby. Do you
3 see that?
4 A. Yes, I do.
5 Q. And do you know if Mr. Landay served on the
6 board of directors?
7 A. I'm not sure. I think he did, but I'm not sure.
8 He was -- he was an executive of the company, that I
9 know.
10 Q. Senior vice-president of the company; correct?
11 A. Well he was certainly the senior marketing man
12 in my day.
13 Q. And you're aware of the Auerbach-Hammond beagle
14 studies?
15 A. No, I've never heard of that.
16 Q. Never heard of those inhalation studies that
17 were conducted back in 1969, '70?
18 A. No, I've never heard of that.
19 Q. I'd like to direct your attention to the first
20 paragraph. "Attached is a copy of a paper read to
21 the American Cancer Society by Drs. Hammond and
22 Auerbach this morning and on which you read a wire
23 service release. This report describes the study in
24 which beagle dogs smoked cigarettes for up to 2.3
25 years through a throat opening to their windpipes.

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1 The important finding is that two of the 86 dogs
2 which started the test developed 'early squamous cell
3 bronchial carcinoma' --
4 Do you know what that is?
5 A. No, I don't.
6 Q. -- "i.e., the most common lung cancer occurring
7 in man." Do you see that?
8 A. Yes, I do see that.
9 Q. You didn't know that until today; is that right?
10 A. No, I didn't know that.
11 Q. "This is the first time cigarette smoke as a
12 direct agent has produced lung cancer in an animal in
13 any reliably conducted experiment." Do you see that?
14 A. Yes, I do.
15 Q. Nobody ever told you about that either; did
16 they, sir?
17 A. No, I did not know about that study. And I'd
18 like to know more about it, but I don't -- I'd not
19 heard about that study.
20 Q. Can you direct your attention to Exhibit 10387,
21 which is 20 days later. That's a memorandum directed
22 to Dr. Wakeham --
23 And you know him.
24 A. Yes. I've met him once or twice in my life.
25 Q. He became head of the research and development
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1 department; correct?
2 A. I believe so.
3 Q. And Mr. Fagan was a Philip Morris scientist;
4 correct, sir?
5 A. I've never heard of him.
6 Q. And the date of this is February 25th, 1970. Do
7 you see that?
8 A. Yes, I do.
9 Q. I'll represent to you that we have been advised
10 that Mr. Fagan was a Philip Morris scientist by
11 Philip Morris. Will you accept that?
12 A. Yes, I shall.
13 Q. And in paragraph six, it's relating to the
14 Auerbach study. Do you see that?
15 A. Yes, I do.
16 Q. And this is a visit that Dr. Fagan made to meet
17 with Dr. Auerbach. Do you see that?
18 A. Yes, I do.
19 Q. And Mr. Fagan is reporting to Dr. Wakeham as
20 follows. "Dr. Auerbach showed me photomicrographs of
21 what looked to my non-expert eye as typical invasive
22 carcinoma. He read a report from Dr. John Berg,
23 N.C.I., which corroborates this diagnosis. Dr.
24 Auerbach showed me several notations in which Dr. S.
25 Nielsen, veterinary pathologist, agrees with
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1 Auerbach's readings of the slides." Do you see that?
2 A. Yes, I do.
3 Q. Were you ever advised of that before?
4 A. No, I was not advised of this report. I'm not
5 familiar with it.

6 Q. Can you direct your attention to the next page,
7 paragraph eight.
8 A. Could I just ask, this whole document has to do
9 with the same animal smoking study you referred to in
10 the earlier document?
11 Q. That's correct.
12 A. Thank you.
13 Q. Can you go on to the next page.
14 A. Yes.
15 Q. By the way, are you going to ask about these
16 studies when you go back?
17 A. I'll think about that, yes. I'd like to know
18 more about them.
19 Q. Are you going to ask about the trip report that
20 I showed you, the exhibit where the three scientists
21 came over from England and met with Philip Morris and
22 others?
23 A. Well I haven't thought about that, but I
24 probably will, yes.
25 Q. Are you going to conduct a study into the

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1 history of Philip Morris to determine what they knew
2 and when they knew it about smoking and diseases?
3 A. Well I don't think I shall do that. I'll think
4 about it. But I don't think I will. Let me tell you
5 why.
6 Q. I just wanted to know --
7 A. Yes. Okay.
8 Q. -- whether or not you will, sir.
9 A. Well I'll think about that, sir.
10 Q. Looking at paragraph eight, "Judging from my
11 reading of a copy of a talk given to the American
12 Cancer Society and from what I saw at the V.A.
13 Hospital in East Orange, New Jersey, I would say that
14 the experiment is a crude one but effective in that
15 carcinoma in dogs has been produced." Correct?
16 A. That's what it says.
17 Q. That's an animal study; correct, as you
18 understand it?
19 A. I do understand a dog is an animal, yes.
20 Q. You do understand this to be an animal study;
21 correct?
22 A. Yes. It says it's a crude one, and I'm not
23 quite sure what that means, but a crude one would
24 seem to me to qualify it somewhat.
25 Q. And you --

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1 And it states, "I am not expert enough to
2 distinguish between these early carcinomata,
3 pulmonary adenomatosis, carcinoma in situ, et cetera.
4 This I leave to the expert pathologists. Naturally
5 the exposure could be refined so that characteristics
6 of the smoke that dogs were getting could be analyzed
7 chemically. Also modifications of the smoking
8 technique would be made that would more closely
9 reproduce the human exposure." Do you see that?
10 A. Yes, I do.

11 Q. These were observations regarding the nature of
12 the study; correct, sir?
13 A. Yes, I'd say that's a fair characterization,
14 yes.
15 Q. And obviously, it would be sort of hard to get a
16 dog to smoke the way a human being smokes; correct?
17 You would agree with that.
18 A. I would have thought so, yes.
19 Q. Yes.
20 A. But I don't know of any other animal studies
21 that could be conducted any differently.
22 Q. How about on human beings?
23 A. What do you mean, sir?
24 Q. Well, you think you could take human beings and
25 take people who have never smoked and say, okay,

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1 we're going to have you smoke and we're going to
2 follow you for 40 years and compare you with people
3 that don't smoke to see if you get cancer? Could you
4 do that?
5 A. I'd have thought that would be complicated.
6 Q. Unethical, wouldn't it?
7 A. I would say not only perhaps unethical -- I just
8 don't know. I would say it would be very complicated
9 because there are so many confounding factors. You'd
10 need to have two people, I think, doing exactly the
11 same thing, leading exactly the same lifestyle,
12 eating exactly the same food, living in exactly the
13 same environment. Otherwise, it would be hard to
14 point to exactly what the conclusion would be in this
15 sort of thing, sir.
16 Q. And epidemiological studies do that. They take
17 and -- take into account all of those what you've
18 just mentioned, variables; don't they?
19 A. Not to my knowledge.
20 Q. Pardon me?
21 A. Not to my knowledge.
22 Q. Have you ever asked?
23 A. Have I ever asked?
24 Q. Yes.
25 A. No, I have not asked. But I don't see how a

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1 statistical model, let us say of 20,000 people, could
2 possibly track all of their habits of each of the
3 individuals in that study.
4 Q. And that's what you would require before you
5 felt that smoking caused any disease; is that right?
6 A. No, that's not what I'm saying, sir. I thought
7 you asked me a question earlier on about the human
8 being.
9 Q. Are you aware of epidemiological studies and how
10 they're conducted? Are you aware of them?
11 A. Well I'm aware of epidemiological studies, and I
12 have some slight knowledge of how they're conducted,
13 but I would not suggest I'm an expert.
14 Q. Now you don't believe that any medical doctor
15 would suggest that a human being who does not smoke

16 should smoke in a test to determine whether he or she
17 would contract cancer; do you?
18 A. I wouldn't have thought that's something one
19 should do, no.
20 Q. That's because they'd be afraid they would
21 contract cancer; wouldn't you?
22 A. I would not agree with that.
23 Q. Pardon me?
24 A. I would not agree with that.
25 Q. You wouldn't agree.

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1 A. I think that's an ethical thing to do. I just
2 don't understand how anybody --
3 Q. And it's unethical --
4 A. -- could suggest that you should do that.
5 Q. And it's unethical because they might contract a
6 disease from the smoking; correct?
7 A. You're confusing me. I'm really not quite sure
8 what you're asking, sir. Could you make it a little
9 plainer for me?
10 Q. Sure.
11 A. Thank you.
12 Q. A doctor would not subject somebody to that type
13 of test because they might contract a disease from
14 smoking, correct?
15 A. Which type of test?
16 Q. Subjecting them to smoking over a long period of
17 time., someone who had been a non-smoker.
18 A. I'm just so confused about your question, sir.
19 I just can't answer it.
20 Q. Can't answer it.
21 A. No. Excuse me. I'm not sure what you're asking
22 me, sir.
23 Q. All right. Let's go back, then, to the
24 document. After Mr. Fagan or Dr. Fagan made his
25 observations on the methods of the study, he said the

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1 following, "But this is only a quibble. The crux of
2 the situation is whether there is general agreement
3 by qualified pathologists that carcinoma,
4 squamous-cell carcinoma has indeed been produced."
5 Do you see that?
6 A. Yes, I do.
7 Q. Now he doesn't say absolute agreement; does he?
8 A. No. He says there is general agreement.
9 Q. He doesn't say universal agreement; does he?
10 A. No, it doesn't say that.
11 Q. And then he goes on to say, "And even if the
12 cancer-production is invalidated the obvious
13 emphysema cannot be denied." Do you see that?
14 A. Well he said "produced," I think.
15 Q. "And even if the cancer-production is
16 invalidated the obvious emphysema produced cannot be
17 denied."
18 A. That's right.
19 Q. Correct?
20 A. That's right.

21 Q. Now emphysema is chronic obstructive pulmonary
22 disease; isn't it?
23 A. Well frankly I don't know, but I'll accept that
24 it is.
25 Q. Do you know if people who die from emphysema die
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1 an excruciating death?
2 A. No, I don't know that.
3 Q. Have you ever asked anybody what the symptoms
4 and signs are of somebody who is dying from
5 emphysema?
6 A. No, I've not. But I've known one or two people
7 who have had emphysema.
8 Q. Advanced emphysema?
9 A. Yes, one person with advanced emphysema.
10 Q. Was it painful?
11 A. Well I don't know if it was painful at the stage
12 of his life that I knew him, but he certainly had
13 difficulty breathing.
14 Q. Had difficulty breathing.
15 A. Yes.
16 Q. Okay. That can be painful if you have to gasp
17 for air; isn't it?
18 A. Well he had great difficulty. It was
19 unpleasant.
20 Q. And do you know how many people are reported to
21 die from emphysema in this country today as a result
22 of smoking?
23 A. No.
24 Q. Do you know?
25 A. No, I do not know that.

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1 Q. Have you ever asked that question?
2 A. No, I have not asked that question.
3 Q. Have you ever asked a question of how many
4 people die from chronic heart disease as a result of
5 smoking?
6 A. No, I've not asked that question.
7 Q. Have you ever asked how many people die from
8 lung cancer as a result of smoking?
9 A. No, I've not asked that question.
10 Q. Have you ever asked how many people die from any
11 disease caused by lung smoking -- smoking?
12 A. Well I think I've made it clear that I'm unclear
13 in my own mind as to whether anybody dies from
14 cigarette smoking-related diseases. I just don't
15 know.
16 Q. Have you ever asked, sir, how many are reported
17 to die from any disease reported to be caused from
18 smoking? Have you ever asked that question?
19 A. I've not bothered to ask, sir, because I read
20 regularly that there are numbers reported by, I
21 think, the CDC.
22 Q. Well can you tell us how many people are
23 reported to die from lung cancer as a result of
24 smoking?
25 A. Well I think the CDC reports that 400,000 people

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1 a year die from cigarette smoking-related diseases.
2 Q. How long have you been aware of that?
3 A. Well the number keeps changing, but probably
4 some years, sir.
5 Q. Some years.
6 Can you go back, sir, to -- or I guess it would
7 be forward, to Exhibit 18499.
8 Before you get there, let me ask you this: Did
9 officials of Philip Morris publicly state that they
10 would stop their business if smoking caused any
11 medical problem?
12 A. I have no idea about that, sir. Nothing comes
13 to my mind.
14 Q. You testified earlier that you had said back in
15 August of 1997 that you'd shut down the business;
16 correct? You've rethought that, I know, but you said
17 that back in August; correct?
18 A. Yes, I said that. That was sort of
19 unfortunately characterized, but I said it.
20 Q. You were under oath at the time.
21 A. Oh, I know I was under oath. And I said it.
22 I'm not denying that I said it.
23 Q. Do you know if George Weissman, vice-president
24 of Philip Morris back in 1954, said that the
25 cigarette industry would stop business tomorrow if it

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1 thought its product was harming smokers?
2 A. No, I am not aware of that.
3 Q. All right. Can you direct your attention to
4 Exhibit 18499. It is an article that was in the St.
5 Paul Pioneer Press March 31, 1954.
6 Have you ever seen that before, sir?
7 A. Is this the first page? There's no date on
8 this.
9 Oh, here's the handwritten date. March 31, yes.
10 By Bob Hanson. Is that the article you're referring
11 to?
12 Q. Yes.
13 Have you ever seen that before?
14 A. No.
15 Q. And Mr. Weissman was vice-president of Philip
16 Morris?
17 A. Well I don't know what he was then. He -- he
18 certainly -- certainly worked at Philip Morris, yes.
19 MR. CIRESI: Your Honor, we'd offer Exhibit
20 18499 pursuant to 903(6), 803(16) and 801(d)(2).
21 MR. BLEAKLEY: No objection.
22 THE COURT: Court will receive 18499.
23 BY MR. CIRESI:
24 Q. Now I want to direct your attention to that
25 portion of the document which states as follows:

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1 "THE CIGARET industry would, quote, stop business

2 tomorrow, end of quote, if it thought its product was
3 harming smokers, according to George Weissman,
4 vice-president of Philip Morris and Company, in a
5 speech in Chicago. He blames the cancer problem on
6 'medical propoganda...by a small number of doctors
7 and a large number of magazines and newspapers.'" do
8 you see that?

9 A. Yes, I do.

10 Q. Now do you blame the cancer problem on medical
11 propoganda with regard to smoking and health?

12 A. Which kinds of problems, sir?

13 Q. The lung cancer problem.

14 A. Uh-huh. Do I blame it on which, sir?

15 Q. On the medical propoganda by a small number of
16 doctors and a large number of newspapers and
17 magazines?

18 A. No, I don't.

19 Q. Now this was a representation made to the public
20 back then; correct?

21 A. Forty-four years ago, yes.

22 Q. Yes.

23 A. Uh-huh.

24 Q. Do you think that's an appropriate thing to do,
25 to attack the doctors who are attempting to get out

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1 information regarding the health problem?

2 A. Well I -- I wouldn't have thought so, certainly
3 in the environment today. I don't know what the
4 situation was then. But it's not appropriate.

5 Q. Well, it wouldn't be appropriate in any
6 environment, would it, to try to smear the doctors?

7 A. I would not have thought so. I hold doctors in
8 the utmost respect and I wouldn't have thought that's
9 something to do, but I don't know what the
10 circumstances were then, sir.

11 Q. In fact --

12 A. I don't want to form a conclusion on what George
13 Weissman said back in 1954.

14 Q. In fact, in the document that we saw of Hill &
15 Knowlton, it said that's what the medical -- or the
16 cigarette men tended to do; --

17 MR. BLEAKLEY: Your Honor --

18 Q. -- isn't it?

19 MR. BLEAKLEY: Objection, Your Honor,
20 that's a mischaracterization of the document.

21 THE COURT: Okay. Rephrase the question,
22 counsel.

23 Q. The Hill & Knowlton document, sir, didn't it
24 state that the men talked to in the cigarette
25 companies tended to think occasionally in terms of

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1 trying to smear the personal responsibility motives
2 or judgment or techniques of Wynder and others
3 supporting him? Isn't that what it said?

4 A. Could I refer back to that document?

5 Q. You absolutely can.

6 A. Do you mind? Can --

7 Q. It's Exhibit 18904, page five.
8 Q. "Problem 3(a). Remember I asked you about that
9 and you said that would be wrong?
10 A. Problem 3(a).
11 Q. And problem 3(a) reads, "How to validate this
12 message of assurance. The men talked to in the
13 cigarette companies tend to:
14 "a) Think occasionally in terms of trying to
15 'smear' the personal responsibility, motives,
16 judgments, or techniques of Wynder and others
17 supporting him."
18 A. That's right.
19 Q. You see that?
20 A. Yes, I do.
21 Q. And you said that would be inappropriate; didn't
22 you?
23 A. Well that's what I did say, yes. I think I did
24 say that.
25 Q. And we see in this statement of Mr. Morris -- or
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1 Mr. Weissman, excuse me, that he was attacking a
2 small number of doctors; wasn't he?
3 MR. BLEAKLEY: Objection, the document
4 speaks for itself and it does not use the word
5 "attacking." I object to counsel's characterizing
6 the document.
7 THE COURT: Rephrase the question.
8 MR. CIRESI: I'll rephrase it.
9 Q. He was blaming the cancer problem on medical
10 propoganda by a small number of doctors and a large
11 number of magazines and newspapers. That's what he
12 was saying; correct?
13 A. That's -- that is what this document says, yes.
14 Q. You'd consider that a smear; wouldn't you?
15 A. Well it would depend upon the circumstances,
16 sir. And as I said, I was not around then in the
17 United States. I'm not familiar with the
18 circumstances that caused George Weissman to make
19 that statement, so I really don't feel qualified to
20 make a judgment upon it.
21 Q. Well, you know an individual by the name of Mr.
22 Smith, who was vice-president and general counsel of
23 Philip Morris?
24 A. No.
25 Q. Ever hear of him?

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1 A. I think I have heard of his name. I think he
2 was at Philip Morris before I joined.
3 Q. Can you direct your attention to Exhibit 18081
4 in volume two.
5 A. Yes.
6 Q. Now this was 13 years later. You see it's an
7 October 3rd, 1967 document from E. R. Quinby, Philip
8 Morris Incorporated, a press release?
9 A. It appears to be a press release, yes.
10 Q. And the title of the press release is "Claims Of
11 Research Community Is Influenced By Distribution Of

12 Federal Funds?"
13 A. Yes, that's the title.
14 MR. CIRESI: We'd offer Exhibit 18081, Your
15 Honor.
16 MR. BLEAKLEY: No objection.
17 THE COURT: Court will receive 18081.
18 BY MR. CIRESI:
19 Q. Now this is 13 years after Mr. Weissman;
20 correct?
21 A. Yes, that's right.
22 Q. And the title of this "Cigarette Executive Says
23 That Shortage Of Evidence Weakens Public Health
24 Service Premises In Smoking Controversy." Correct?
25 A. Yes.

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1 Q. "Paul D. Smith, Philip Morris Inc. Vice
2 President, States That The Surgeon General Hopes To
3 Abolish Tobacco Growing." See that?
4 A. Yes, I see that.
5 Q. "Claims That Research Community Is Influenced By
6 Distribution Of Federal Funds." Correct?
7 A. Yes.
8 Q. Were the CTR grantees influenced by the
9 distribution of tobacco money?
10 A. I have absolutely no idea.
11 Q. You mean they may have been.
12 A. I beg your pardon?
13 Q. They may have been?
14 A. I --
15 Could you rephrase the question, please?
16 MR. BLEAKLEY: Objection, Your Honor, calls
17 for speculation on the part of the witness.
18 THE COURT: I'm sorry, you interrupted the
19 witness's answer so I couldn't hear what he said.
20 MR. BLEAKLEY: I want -- I'm objecting so
21 he won't answer the question because the question
22 asks him to speculate about what they may have meant.
23 THE COURT: Okay.
24 MR. BLEAKLEY: He already said he doesn't
25 know.

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1 THE COURT: Okay. Well then we'll strike
2 his answer and I'll sustain your objection.
3 MR. BLEAKLEY: Thank you, Your Honor.
4 BY MR. CIRESI:
5 Q. You said you have absolutely no idea whether
6 they'd been -- they may have been influenced by the
7 distribution of tobacco money; is that what you said?
8 A. Well could you ask me the question again,
9 please, sir?
10 Q. I'll be glad to.
11 A. Thank you.
12 Q. "Were the CTR grantees influenced by the
13 distribution of tobacco money?
14 "Answer: I have absolutely no idea."
15 Is that what you said?
16 A. I think that's what I said, yes.

17 Q. Okay. So you don't know if the grantees of the
18 CTR who accepted money would have been influenced by
19 that?

20 A. Influenced by what?

21 MR. BLEAKLEY: Objection, asked and
22 answered, Your Honor.

23 THE COURT: It's been asked and answered.

24 Q. Do you think that the mere fact somebody
25 receives money from a certain organization, that

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1 would influence them to not be objective in their
2 research?

3 A. Because somebody gave you a grant to conduct
4 research, are you asking me whether they should be
5 influenced one way or the other because they received
6 money?

7 Q. Yes.

8 A. I think that's abhorrent.

9 Q. You think it's what?

10 A. Abhorrent.

11 Q. Abhorrent.

12 A. Yes.

13 Q. Okay. So they shouldn't be; right?

14 A. No, they shouldn't be influenced. I mean I
15 would have thought they should conduct their research
16 in the most ethical manner they can conduct the
17 research.

18 Q. And you should have very solid evidence before
19 you would accuse somebody of being influenced simply
20 by where the money came from; correct?

21 A. Yes, I would have thought so.

22 Q. Isn't that fair?

23 A. Yes.

24 Q. You would agree with that with regard to
25 scientists who receive money from the CTR; isn't that

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1 right?

2 A. That they should not be influenced from -- by
3 where the money comes from?

4 Q. Right. You shouldn't attack them simply because
5 they got the money from the tobacco industry.

6 A. No. I agree completely, yes.

7 Q. Okay. Wholly apart from what type of research
8 they did, somebody shouldn't attack them just because
9 the money came from the industry; should they?

10 A. I agree with that.

11 Q. And simply because the money comes from the
12 federal government, the tobacco industry shouldn't be
13 attacking scientists for that reason; isn't that
14 right?

15 A. That's right. But I don't know what the
16 substance of the article is here. I'm not familiar
17 with the circumstances.

18 Q. Do you see on page 815 --

19 A. Yes. I'm on page 815.

20 Q. -- at the top, we see that Mr. Smith was
21 vice-president and general counsel; correct?

22 A. Yes.
23 Q. And he said on this day, which was October 3rd,
24 1967, that "Public Health Service forces are
25 frustrated by 'an extreme shortage of evidence
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1 necessary to nail down the indictment against smoking
2 and a slowly accumulating body of evidence which is
3 beginning to weaken their major statistical
4 premise.'" Do you see that?
5 A. Yes, I do.
6 Q. Now this was three years after the Surgeon
7 General report; correct?
8 A. The 1964 report.
9 Q. Yes.
10 A. Yes.
11 Q. And do you know how many articles,
12 epidemiological articles were included in the 1964
13 Surgeon General's report?
14 A. No, I don't.
15 Q. If we move down in this page to the
16 second-to-the-last paragraph, "Referring to a
17 statement by Dr. Stewart that questions of smoking
18 and health 'are no longer debatable,' Smith
19 commented, 'his lack of objectivity is deplorable.
20 More important - what right does even the nation's
21 highest-ranking health officer have to close off
22 debate? None that I know of!'" Do you see that?
23 A. Yes, I do.
24 Q. Now, do you know if Philip Morris itself years
25 before this had found the Surgeon General's report to
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1 be based on sound scientific evidence by objective
2 scientists?
3 A. I have no idea what they found then, sir.
4 Q. Well if they did know that internally, they
5 shouldn't be criticizing it externally; should they?
6 A. Well I don't know. I really find it difficult
7 to comment upon this paper. It was written years
8 before I ever came to Philip Morris, and I don't know
9 what the purpose of the comments were. I really
10 don't understand it, sir.
11 Q. Can we go on to the next page?
12 A. Uh-huh.
13 Q. Top of page two.
14 A. Yes.
15 Q. Second paragraph.
16 A. Uh-huh.
17 Q. "'A large empire has been built, mainly financed
18 with Federal funds and devoted to eliminating
19 cigarette smoking. This empire, governed and
20 supported principally by the Federal health
21 establishment, has proved to be a good vehicle for
22 ambitious public health officials to obtain funds.'"
23 Do you see that?
24 A. Yes, I do.
25 Q. Do you think that's an attack on the public
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- 1 health establishment of the federal government?
2 A. I would say so. It would seem that he's being
3 critical of some group that's being financed by
4 federal funds, yes. He describes it as a large
5 empire has been built. I think that often happens in
6 government agencies.
7 Q. And do you know how many Surgeon General's
8 reports have been contributed to by how many
9 scientists in this country over the last 34 years,
10 sir?
11 A. Do I know how many --
12 Q. Surgeon General's reports.
13 A. Have been --
14 Q. Contributed to by how many scientists from this
15 country?
16 A. No. I have no idea, sir, no.
17 Q. Have you ever asked, "How many scientists have
18 found that smoking causes these diseases in all of
19 these Surgeon General's reports?" Have you ever
20 asked?
21 A. No, I have not asked that, sir.
22 Q. Can you direct your attention to Exhibit 10322
23 in volume one.
24 A. Yes, I have it.
25 Q. And you see that's "SMOKING AND HEALTH,

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- 1 SIGNIFICANCE OF THE REPORT OF THE SURGEON GENERAL'S
2 COMMITTEE TO PHILIP MORRIS INCORPORATED?
3 A. Yes, I do.
4 Q. And can you turn over a couple pages, sir, it's
5 got the date February 18th, 1964. Do you see that?
6 A. (Coughing) Excuse me.
7 Yes, I have that.
8 Q. And you see the distribution list?
9 A. Yes, I do.
10 Q. Do you know what position Mr. Hugh Cullman had?
11 A. In 1964, no, I don't.
12 Q. How high in the company did he go up?
13 A. Well when I joined Philip Morris in 1968, he was
14 president of Philip Morris International.
15 Q. And did he stay in that position?
16 A. Yes, he stayed in that position for a number of
17 years. I'm trying to think. Probably about 10
18 years.
19 Q. And you see Mr. Atkins, Atkins?
20 A. Yes, I do.
21 Q. Did you know him?
22 A. No, I've never heard his name.
23 Q. Mr. Britton, did you know him?
24 A. No, I did not know him.
25 Q. Mr. Lincoln, you knew him; correct?

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- 1 A. Yes, I had met him.
2 Q. And Mr. Macon, did you know him?

3 A. No, I don't recall --
4 I've heard his name, but I don't remember
5 meeting him.
6 Q. He was an executive; wasn't he?
7 A. I think so.
8 Q. Yeah. And Dr. Wakeham; correct?
9 A. Yes.
10 Q. In fact, all of these individuals were
11 high-ranking officials at Philip Morris at this time
12 in 1964; weren't they?
13 A. Well I -- I'll -- I'll accept that. I'm just
14 not sure of George Macon, but I accept that.
15 Q. And this was three years before Mr. Smith's
16 press release -- or I should say Philip Morris's
17 press release in which Mr. Smith was quoted; correct?
18 A. I think that's right. It was '67. Yes.
19 Q. And can you turn over to the next page.
20 A. Uh-huh.
21 Q. And do you see there, sir, that there's an
22 introduction and summary regarding the significance
23 of the report of the Surgeon General's Advisory
24 Committee?
25 A. Yes.

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1 Q. And that it is reported here by Dr. Wakeham that
2 "The Research Center has made an initial examination
3 of the report of the Surgeon General's Advisory
4 Committee on Smoking and Health with the view to its
5 proper influence on Research Center program and
6 formulation of technical advice to Philip Morris
7 Management?"
8 A. Well I don't see that it's a report done by Dr.
9 Wakeham. What you read is accurate.
10 Q. I'll represent to you that it is, sir.
11 A. Okay.
12 Q. And do you see that Dr. Wakeham states, "The
13 onus of proof has been moved by the report from its
14 usual position with the industry's accusers to the
15 tobacco industry itself?"
16 A. Yes, I've read that.
17 Q. Have you ever seen this document before?
18 A. No, I have not.
19 Q. And if you can turn over to page two.
20 A. Uh-huh.
21 Q. It's got "SIGNIFICANCE OF THE REPORT'S FINDINGS
22 TO TECHNICAL ACTIVITY." Do you see that?
23 A. Yes.
24 Q. And do you see in the first paragraph, about six
25 lines down, "Now the findings of the ten man panel of

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1 impartial scientists seen to have taken -- have been
2 taken rather as a verdict against cigarette smoking."
3 Correct?
4 A. Yes, I see that.
5 Q. And Dr. Wakeham here is talking about the
6 Surgeon General's committee as impartial scientists;
7 isn't he?

8 A. Where does he say that, sir?
9 Q. "Ten man panel of impartial scientists." Right
10 there on page two, right where we were, sir.
11 A. Oh, yes. I see it. Sorry.
12 Q. Do you have it?
13 A. Yes, I do.
14 Q. And if you want to just confirm for yourself Dr.
15 Wakeham wrote this, you can go to the very last page.
16 I saw you paging through.
17 A. No, I wasn't looking for that, sir. I find it
18 rather difficult just to get a grip of the paper
19 because there are things I'm not familiar with at
20 all, and they tend not to have headings, and I don't
21 find them very helpful.
22 Q. Never -- never had an opportunity to look at
23 these before; right?
24 A. I've been very busy, sir, looking forward.
25 Q. Never had an opportunity to look at these
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1 before; correct?
2 A. I've never seen these before.
3 Q. Thank you.
4 Now if you go on on page two, you'll see also
5 that Dr. Wakeham refers to "The professional approach
6 of the Advisory Committee may serve to force future
7 arguments to a more scientific basis." Correct?
8 A. Yes.
9 Q. Now do you know if the tobacco industry had used
10 the CTR to forge an argument based on public
11 relations?
12 A. No, I have no idea of that.
13 Q. Have you ever seen any documents regarding that?
14 A. None to my knowledge, no.
15 Q. Do you know if the CTR was controlled by lawyers
16 rather than scientists?
17 A. Do I know that?
18 Q. Yes.
19 A. No.
20 Q. Have you ever seen documents related to that?
21 A. No.
22 Q. Do you know who Mr. Judge was?
23 A. No.
24 Q. Did you know who Mr. Ramm was?
25 A. No.

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1 Q. You don't know how the CTR was governed at
2 all --
3 A. No.
4 Q. -- after its formation; do you, sir?
5 A. No, sir. In fact I didn't even know what CTR
6 stood for until 1994 when I asked what it stood for.
7 Q. And you've done no investigation into the CRT's
8 background; correct?
9 A. That's quite right, for reasons I described
10 earlier.
11 Q. Can you direct your attention to Exhibit 10686,
12 please.

13 A. Yes, I have it.
14 Q. Now do you know who Mr. Millhiser is?
15 A. Yes, I do.
16 Q. And who is he?
17 A. In his last position he was deputy chairman of
18 the company.
19 Q. Vice chairman; correct?
20 A. Vice chairman of the company. That would be
21 right, yes.
22 Q. Also a president; correct?
23 A. Yes, that's probably right.
24 Q. And again we have Mr. Lincoln, Jett Lincoln;
25 correct?

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1 A. Yes. Yes.
2 Q. And the date of this is April 23rd, 1958;
3 correct?
4 A. Yes.
5 Q. And do you recall we saw those documents about
6 taking out carcinogenic compounds?
7 A. Yes.
8 Q. The title of this document is "Two Complexes, a
9 Compound and a Campaign." Do you see that?
10 A. Yes.
11 Q. "TWO COMPLEXES.
12 "Self-analysis, confirmed by a professional,
13 Mike Kelfgott, leads to the following view of our
14 relation to the health problem. All of us, or at
15 least most of us, in the tobacco industry are caught
16 between a guilt complex and a power complex." Do you
17 see that, sir?
18 A. Yes, I do.
19 Q. "The guilt complex is a simple matter. We tend
20 to suffer from the externally repressed fear that our
21 opponents are right and we are wrong on the health
22 question and that we are thus devoting our business
23 lives to the propogation of lung cancer." Do you see
24 that?
25 A. Yes, I do.

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1 Q. Now opponents, would you consider the public
2 health establishment an opponent?
3 A. No, I wouldn't describe them as that. I think
4 they're very sincere people.
5 Q. Mr. Smith in 1967, nine years after this
6 document, attacked the public health officials;
7 didn't he?
8 A. Could you refer me back to that document,
9 please?
10 Q. Certainly, sir. It's Exhibit 18081 in volume
11 two, page two.
12 A. Yes. Where was it again?
13 Q. Page two, Bates number, last three, 816.
14 A. Yes, I have that.
15 Q. "A large empire has been built mainly
16 financed" --
17 A. Right.

18 Q. -- "with Federal funds." Do you remember that?
19 A. Yes.
20 Q. Okay. So Mr. Smith in 1967 was attacking the
21 research community which he said was influenced by
22 distribution of federal funds; correct?
23 A. Well, you know, I'll accept what you're saying,
24 but I would have preferred to have read the document
25 to form that conclusion.

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1 Q. Well let me tell you some other things that he
2 says in there.
3 A. I don't -- I don't know which research community
4 he's referring to, actually.
5 Q. Why don't we direct our attention to page
6 three --
7 A. Uh-huh.
8 Q. -- of Mr. Smith's document.
9 A. Yes, I have that.
10 Q. Actually, it's not Mr. Smith's document, it's a
11 press release of Philip Morris; correct?
12 A. Well let me look at that and just see. It is a
13 press release.
14 Q. From Philip Morris Incorporated; correct?
15 A. Well it's a bit hard to say. I would say it's
16 Paul Smith himself speaking on behalf of Philip
17 Morris.
18 Q. Well it's -- all right. It comes from the
19 Philip Morris headquarters at 100 Park Avenue;
20 correct?
21 A. Yes. That's from where it would be distributed.
22 And you reminded me here that the title is Paul D.
23 Smith, Philip Morris Inc. Vice President.
24 Q. And in this article -- I'm sorry.
25 In this press release, --

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1 A. Uh-huh?
2 Q. -- the page that is the title states, "Claims
3 That Research Community Is Influenced By Distribution
4 Of Federal Funds." Correct?
5 A. That's the title, yes.
6 Q. And on the page that I pointed out to you, he
7 talks about an empire being built with federal funds;
8 correct?
9 A. Yes. But my question was it's unclear to me
10 what research community he's referring to. I just
11 don't know.
12 Q. Well if you go back to the first page, you'll
13 see -- well, strike that.
14 I'm sorry. Mr. Bible, you don't know what
15 community he's talking about?
16 A. No. Could you help me?
17 Q. Well I'll read it to you.
18 A. Thank you.
19 Q. "A large empire has been built mainly financed
20 with Federal funds and devoted to eliminating
21 cigarette smoking. This empire, governed and
22 supported principally by the Federal health

23 establishment, has proved to be a good vehicle for
24 ambitious public health officials to obtain funds."
25 He's talking about the federal public health
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1 community, is he not?
2 A. Well I don't know. What I was asking was there
3 a particular organization he's talking about? That's
4 all I'm trying to establish.
5 Q. Okay.
6 A. I'm not trying to quibble with you. I just
7 would like to know.
8 Q. Is the Surgeon General's office public health
9 officials?
10 A. Yes. That I would consider that to be a public
11 health official.
12 Q. And in the Frank Statement, did Philip Morris
13 promise to work closely with public health officials?
14 A. Promise --
15 Q. To work closely with public health officials.
16 A. Well I'm not sure.
17 Q. I'll read it to you.
18 A. Thank you.
19 Q. "We always have and always will cooperate
20 closely with those whose task it is to safeguard the
21 public health." Right?
22 A. Thank you.
23 Q. The Surgeon General would be one whose task it
24 is to safeguard the public health; correct?
25 A. Yes, correct.

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1 Q. Now let's go back to Mr. Jett Lincoln's
2 memorandum.
3 A. Right. But have we established that the large
4 empire here is the federal government research
5 community? Is that what you're --
6 Q. Well --
7 A. Is that what it means?
8 Q. I'll tell you what, tonight you can look through
9 the document.
10 Mr. Smith says ambitious public health
11 officials.
12 A. Thank you.
13 Q. Now do you believe that the attorney -- the
14 Surgeon General's office should be considered an
15 opponent by the industry?
16 A. No, I don't.
17 Q. Mr. Lincoln goes on to state as follows: "The
18 power complex is a matter of natural human resentment
19 of attempts by outsiders to play a role in our
20 industry. Product modifications suggested by
21 outsiders meet with an emotional resistance that
22 would not occur if the same modifications were
23 originally suggested by insiders." Do you see that?
24 A. Yes, I do.
25 Q. "The very natural operation of these two

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1 complexes causes a difference between the
2 manufacturer and the consumer viewpoint on the health
3 question." Do you see that?
4 A. Yes, I do.
5 Q. Now sir, should it make any difference to Philip
6 Morris whether an idea for product modification comes
7 from the outside as opposed to the inside?
8 A. No, I don't think it should. It would depend
9 upon the modification, of course.
10 Q. All right. Put me aside for a minute. Okay?
11 A. Okay.
12 Q. But let's assume that someone from the outside,
13 a scientist, suggested a product modification.
14 A. Uh-huh.
15 Q. Should that make any difference simply because
16 he is from the outside?
17 A. Do you mean should we just reject it out of hand
18 because it's coming from outside? Is that what you
19 mean?
20 Q. I mean should you resent it?
21 A. Resent it?
22 Q. Yes.
23 A. I don't know why I should resent it, no.
24 Q. If you go down to the last paragraph above "THE
25 COMPOUND."

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

1 A. Yes, I have that.
2 Q. "From the consumer point of view the picture is
3 very different."
4 A. Hang on, I've lost --
5 Oh, yes, I've got it. Thank you.
6 Q. "From his point of view those nice folks who
7 make Marlboro, Winston, L&M, et cetera, received
8 exactly what they deserved for being so outrageously
9 complacent about their products that they were
10 unwilling to remove or reduce suspected ingredients
11 unless and until they were confronted with complete
12 proof that these ingredients were the sole and direct
13 cause of vast numbers of fatalities." Correct?
14 A. That's what it reads, yes.
15 Q. This is in 1958; correct?
16 A. Yes.
17 Q. And today in this courtroom in 1998, you said
18 you wanted complete proof; didn't you? Didn't you,
19 sir?
20 A. Complete proof of what, sir?
21 Q. That smoking causes cancer.
22 A. Yes. I think I said that --
23 I have said on a number of occasions and the
24 public -- and the company has said publicly that
25 cigarette smoking is indeed a significant factor --

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1 Q. That's not what I asked you.
2 A. -- in the cause -- in the cause of certain
3 diseases.

4 Q. That's not what I asked you, sir.
5 A. Well what did you ask me? Would you mind
6 peating the question?
7 Q. I said today in this courtroom you said you
8 wanted complete proof before you would be satisfied
9 that smoking causes a disease.
10 A. Well I don't think that's what I said. I think
11 I said that I'd been told that the most formidable
12 manner to be certain of something of that nature is
13 through animal studies.
14 Q. You said that you would not accept that smoking
15 causes a disease unless you had that type of absolute
16 proof; isn't that right?
17 A. Well I think I said what I just said.
18 Q. Well, do you accept that smoking causes disease
19 in the absence of that type of proof?
20 A. I -- I've said that I think that cigarette
21 smoking is a very significant risk factor in certain
22 diseases, sir.
23 Q. That's not what I asked you. This -- this is a
24 simple word here.
25 A. Okay. Well let me have it again.

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1 Q. It's "cause."
2 A. Uh-huh.
3 Q. C-a-u-s-e, cause. Do you understand? That's
4 what I'm asking you about.
5 MR. BLEAKLEY: Object to the snide --
6 Q. Do you --
7 MR. BLEAKLEY: Object to the snide remarks
8 of counsel, Your Honor.
9 THE COURT: Counsel, just ask your
10 question.
11 MR. CIRESI: Thank you, Your Honor.
12 BY MR. CIRESI:
13 Q. Do you accept that smoking causes a disease in
14 the absence of an animal study? Do you?
15 A. It might. I don't know.
16 Q. Well other than an animal study, what else would
17 you need to say that it does cause? When you say it
18 might, what else do you need?
19 A. Well I think an animal study probably would be
20 very convincing to me.
21 Q. But in the absence of an animal study?
22 A. Well I'd need to consult with the scientists,
23 sir.
24 Q. You would need to consult with the scientists.
25 A. Yes I'm not a scientist nor am I a medical

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1 doctor.
2 Q. Would you accept the viewpoint of 20 of the
3 leading scientists in the world, independently
4 selected by a medical person of preeminence, would
5 you accept their viewpoint?
6 A. Well if they showed me their rationale and I
7 accepted it, yes, I would accept it.
8 Q. You just said you're not a medical person.

9 A. No, but they --
10 I think they would need to give me some
11 rationale. I'm not going to accept the statement
12 blindly, sir.
13 Q. So if there were 10 or 20 or 30 eminent
14 physicians and scientists who said to you, "Mr.
15 Bible, based on our experience, expertise, judgment,
16 the millions of deaths that are caused in this world,
17 I am telling you, we are telling you, smoking causes
18 diseases," you wouldn't accept it.
19 A. Well I think what I would say is, "Could you
20 please tell me what caused you to form that
21 conclusion?"
22 Q. And if they went through the thousands of
23 epidemiological studies, if they went through the
24 animal studies that we saw here today, if they went
25 through toxicology studies, if they went through

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1 histological studies, if they gave you all of that
2 information and they said it is our professional
3 judgment based on all of this information, this
4 overwhelming body, that smoking causes disease, would
5 you accept it, sir?
6 A. Well let's just start with the epidemiological
7 studies that you talked about. I think I've made my
8 position clear on those already today. I do not
9 believe that correlation through statistical studies
10 is causation, and I don't think I'm the only person
11 in the world that would agree with that. That is one
12 of the basic tenets of statistics.

13 Secondly, on the animal laboratory studies, I'd
14 like to know more about those because I have been
15 told that there have not been any animal laboratory
16 studies that show that tumors have been caused in
17 those animals, that -- to any statistical significant
18 degree. So I am not aware of any animal inhalation
19 studies where tumors have been developed that show a
20 significant difference from the control.

21 So just on the first two elements you mentioned
22 there, I would like to talk with those people about
23 their findings and have them prove to me or show to
24 me convincingly that they were right.

25 Q. What would you need besides these eminent

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1 physicians from around the world who said that is
2 their professional judgment?

3 A. Well I think --

4 Q. What else?

5 A. I think I just explained that to you. And I
6 think I'd have the right to engage in a discussion.
7 Wouldn't -- wouldn't you want to, sir?

8 Q. I want to ask you this question, sir.

9 A. Hmm.

10 Q. Give me an answer to this. I want you to assume
11 that Dr. Glenn testified as follows:

12 "Question: And sir, when scientists make
13 judgment on causation, they don't just look at Henle

14 Koch postulates; do they? They look at other
15 factors; correct?"
16 A. I didn't -- I'm sorry, I didn't hear the -- the
17 last line.
18 Q. "Question: And sir, when scientists make
19 judgment on causation, they don't look at just the
20 Henle Koch postulates; do they? They look at other
21 factors; correct?"
22 "Answer: There are -- there are many factors,
23 obviously.
24 "Question: They look at the experimental
25 approach; don't they?"

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1 "Answer: Correct.
2 "They look at temporal associations; don't they?
3 "Answer: Correct.
4 "They look at the consistency of those
5 associations; don't they?
6 "Answer: I would think so.
7 "They look at the strength of those
8 associations; don't they, sir?
9 "Yes, sir.
10 "They look at the coherence of the associations;
11 don't they?
12 "Answer: I imagine.
13 "And then they make a judgment based on cause
14 and effect; don't they?
15 "Yes.
16 "And the Surgeon General of the United States
17 since 1964 has used those scientific methods in
18 determining whether -- that smoking causes a variety
19 of diseases; haven't they?
20 "Answer: True.
21 "Question: Based on the reports in the medical
22 literature and the judgments of hundreds of
23 scientists in this country and around the world;
24 correct?

25 "Answer: Many of those scientists were
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1 supported by CTR grants.
2 "Question: Sir, is your answer yes?
3 "Answer: Yes."
4 Were you aware of that?
5 A. No, I'm not. I must say I had a bit of
6 difficulty following it.
7 Q. You had difficulty following it.
8 A. I did have difficulty following it.
9 Q. Because it's medical information; correct?
10 A. Well some of the terms I've not heard, sir.
11 Q. And they're medical terms; correct?
12 A. That's right. Yes.
13 Q. And they're medical people making medical
14 judgments; correct?
15 A. That would seem right, yes.
16 Q. Now if we go back to what Mr. Lincoln said 40
17 years ago short a month, "THE COMPOUND" -- this is in
18 Exhibit 10686, sir -- "The analysis above leads to

19 the following conclusion:
20 BENZOPYRENE MUST GO." Do you see that?
21 A. Yes, I do. It's awfully hard to read, but it
22 does look like benzopyrene.
23 Q. I apologize for that. That's the document that
24 was provided to us by your company.
25 "This compound must be removed from Marlboro and
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1 Parliament or sharply reduced. We must do this not
2 because we think it is harmful but simply because
3 those who are in a better position to know than
4 ourselves suspect it may be harmful. Other
5 ingredients that might be harmful must also go, but
6 benzpyrene should go first because it is the one that
7 seems to be under the most suspicion at the moment."
8 "Some of our people who are not lawyers have
9 told me that such a step would impair our legal
10 position, and I would like to protest most strongly
11 against this argument. Whatever our legal position
12 may be at the moment, it cannot possibly be any
13 worse -- be made any worse by removing this
14 ingredient. A man can confess to an action only if
15 he is competent to know whether he did it or not, and
16 we are certainly not competent to testify as to what
17 does or does not cause lung cancer."

18 Do you see that?

19 A. Yes, I do.

20 Q. Now Mr. Jett in 1958 was telling an individual
21 who became the vice chairman of the company that
22 harmful ingredients that are suspected to be harmful
23 must go; isn't that right?

24 A. Yes. He talked about benzopyrene, I think.

25 Q. And he said others that may be suspected; didn't

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1 he?

2 A. That might be harmful.

3 Q. That might be harmful.

4 A. Uh-huh.

5 Q. Correct?

6 A. Yes, correct.

7 Q. And they've never gone in the 40 years; have
8 they, sir? Never.

9 A. Well I don't know. I don't know what has been
10 taken out. I know that benzopyrene was the subject
11 of a recent article. I think that benzopyrene is
12 probably impossible today to remove. I think it is a
13 function of lighting anything. I think it is a
14 function of combustion. But we'd certainly like to
15 be able to remove it.

16 Q. They've never gone in 40 years; have they?

17 A. No, they have not.

18 Q. And --

19 A. I don't know about other ingredients. I
20 shouldn't say that because I just don't know, sir.

21 Q. And do you know if Philip Morris ever, from 1958
22 up to the present time, ever told the public that
23 people internally, all the way up to the

24 chair -- vice chair, excuse me, of the corporation,
25 knew that carcinogens which were suspected to be
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1 harmful to men and women must be removed? Did Philip
2 Morris ever say that?

3 A. Not to my knowledge.

4 MR. CIRESI: Thank you.

5 THE COURT: Counsel, we should --

6 We'll recess, we'll reconvene tomorrow morning
7 at 9:30.

8 THE CLERK: Court stands adjourned.

9 (Recess taken.)

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